

**State of California
Office of Administrative Law**

In re:
Board of Parole Hearings

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections:

Amend sections: 2000, 2029, 2043, 2239,
2268, 2269.1, 2270, 2272,
2273, 2280, 2292, 2304,
2306, 2308, 2309, 2310,
2315, 2343, 2369, 2400,
2401, 2420, 2421, 2430,
2431

Repeal sections: 2269, 2282, 2283, 2284,
2285, 2286, 2287, 2288,
2289, 2290, 2291, 2305,
2317, 2319, 2320, 2321,
2322, 2323, 2324, 2325,
2326, 2328, 2329, 2342,
2371, 2403, 2404, 2405,
2406, 2407, 2408, 2409,
2410, 2411, 2423, 2424,
2425, 2426, 2427, 2428,
2429, 2429.1, 2433, 2434,
2435, 2436, 2437, 2438,
2439, 2439.1

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**


OAL Matter Number: 2020-0922-02

OAL Matter Type: Nonsubstantive (N)

In this action without regulatory effect the Board of Parole Hearings is deleting all regulatory language pertaining to selecting base terms, calculating adjusted base terms, awarding post-conviction credits, and calculating final release dates for inmates because they no longer have authority to establish these pursuant to statutory change (Stats. 2013, c. 312) and In re Butler (2018) 4 Cal.5th 728, 747.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: October 28, 2020



Peggy J. Gibson
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Jennifer Shaffer, Executive
Officer

Copy: Tracy Young

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

NONSUBSTANTIVE

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2020-0922-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Board of Parole Hearings			
AGENCY FILE NUMBER (If any) BPH RN 20-01			

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 28 2020

1134

2020 SEP 22 A 10:00
OFFICE OF
ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Term Calculations and Setting a Parole Date		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) None
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT	
	AMEND	
	REPEAL	
TITLE(S) 15	See attachment	
3. TYPE OF FILING		
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> File & Print
		<input type="checkbox"/> Print Only
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)		
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)		
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect
<input type="checkbox"/> Effective other (Specify)		
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		
7. CONTACT PERSON Tracy Young	TELEPHONE NUMBER (916) 322-6729	FAX NUMBER (Optional) (916) 322-3475
E-MAIL ADDRESS (Optional) tracy.young@cdcr.ca.gov		

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

JP Shaffer

DATE 9/22/2020

TYPED NAME AND TITLE OF SIGNATORY

Jennifer Shaffer, Executive Officer

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 28 2020

Office of Administrative Law

**Changes Without Regulatory Effect
Term Calculations and Setting a Parole Date**

List of sections to be amended:

2000, 2029, 2043, 2239, 2268, 2269.1, 2270, 2272, 2273, 2280, 2292, 2304, 2306, 2308, 2309, 2310, 2315, 2343, 2369, 2400, 2401, 2420, 2421, 2430, 2431

List of sections to be repealed:

2269, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2305, 2317, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2328, 2329, 2342, 2371, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2429.1, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2439.1

CHANGES WITHOUT REGULATORY EFFECT

Proposed additions are indicated by underline and deletions are indicated by ~~striketrough~~.

TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PAROLE HEARINGS

CHAPTER 1: GENERAL

ARTICLE 1. RULES OF CONSTRUCTION AND DEFINITIONS *is amended* as follows:

Section 2000. Rules of Construction and Definitions *is amended*:

§ 2000. Rules of Construction and Definitions.

(a) Rules of Construction. The following rules of construction apply to the regulations contained in this division, except as otherwise noted:

- (1) The enumeration of some criteria for the making of discretionary decisions does not prohibit the application of other criteria reasonably related to the decision being made.
- (2) The order in which criteria are listed does not indicate their relative weight or importance.
- (3) "Inmate," "prisoner," or "parolee" applies to any person who is or has been committed to the custody of the Director of Corrections, including inmates, residents, parolees, and dischargees, regardless of that person's present status.
- (4) "Regulation" means rule or regulation.
- (5) "Shall" is mandatory, "should" is advisory, and "may" is permissive.
- (6) The past, present, or future tense includes the others.
- (7) The masculine gender includes the feminine gender; the singular includes the plural.
- (8) The symbol § refers only to board rules contained in this division.
- (9) The time limits specified in these rules do not create a right to have the specified action taken within the time limits. The time limits are directory, and the failure to meet them does not preclude taking the specified action beyond the time limits.

(b) Definitions. For the purpose of the regulations contained in this division the definitions below shall have the following meanings:

- (1) ISL Prisoner. A person sentenced to prison for a crime committed on or before June 30, 1977, who would have been sentenced pursuant to Penal Code section 1170 if he had committed the crime on or after July 1, 1977.
- (2) DSL Prisoner. A person sentenced to prison pursuant to Penal Code section 1170 for a crime committed on or after July 1, 1977. For the purpose of these rules, once an ISL prisoner has received a retroactively calculated DSL release date all rules applying to DSL prisoners apply to the ISL prisoner's DSL release date and parole.
- (3) Life Prisoner. A prisoner serving a sentence of life with the possibility of parole. ~~The parole date is determined by the board.~~ Life sentences may be imposed for the following crimes or conspiracy to commit any of the following crimes:
 - (A) First degree murder (Penal Code section 187).
 - (B) Second degree murder (Penal Code section 187) committed on or after November 8, 1978.
 - (C) Kidnapping for extortion or ransom, with bodily harm to the victim (before September 22, 1951) and without bodily harm to the victim (since September 22, 1951); and kidnapping for robbery (Penal Code section 209).

- (D) Train wrecking not resulting in death or bodily harm (Penal Code section 219).
- (E) Sabotage resulting in death or great bodily harm (former Military and Veterans Code section 1672a).
- (F) Certain forms of aggravated assault by a prisoner serving a sentence of life imprisonment (Penal Code section 4500).
- (G) Exploding a destructive device causing mayhem or great bodily injury (Penal Code section 12310).
- (H) Attempt to murder a government official in retaliation for or prevention of his performance of official duties. (Penal Code section 217.1).
- (I) Habitual Sex Offender, Penal Code section 667.51(c): A party who has violated Penal Code section 288 (committing lewd or lascivious acts or crimes against children) and who has served two or more prison terms as defined in section 667.5 as punishment for violation of an offense listed in subdivision (b), including commission to the state hospital.
- (J) Habitual Offender, Penal Code section 667.7: Any party convicted of a felony involving or likely to involve infliction of great bodily harm, and who has served two or more prior prison terms as per section 667.5 for crimes of murder, mayhem, rape, etc. or any felony punishable by death or life imprisonment, with or without possibility of parole.
- (K) Attempted willful, deliberate, and premeditated murder as defined in Penal Code section 189 (Penal Code sections 187, 664).
- (L) Aggravated mayhem (Penal Code section 205).
- (M) A new conviction or violation of any of specified controlled substance provisions where the person has served two separate prior prison terms upon conviction of any of the specified provisions (Penal Code section 667.75).
- (N) Attempted murder of a peace officer or firefighter committed on or after January 1, 1995 (Penal Code section 664).
- (O) Attempted willful, deliberate, and premeditated murder of a peace officer or firefighter committed on or after January 1, 1998 (Penal Code section 664).
- (4) Adjusted Maximum DSL Date. This date is computed by adding any at large time to the unadjusted maximum DSL date.
- (5) Agent. See Parole Agent.
- (6) Asylum State. The state other than California in which a parolee-at-large (PAL) is in custody.
- (7) Battered Woman Syndrome. Evidence of the effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence where it appears the criminal behavior was the result of that victimization.
- (8) Board. See Board of Parole Hearings.
- (9) Board Action. An official decision of the board in an individual case.
- (10) Board of Parole Hearings (BPH). The administrative board responsible for ~~setting parole dates~~, establishing parole length and conditions, discharging sentences for certain prisoners and parolees; granting, rescinding, suspending, postponing, or revoking paroles; conducting disparate sentence reviews; advising on clemency matters; and handling miscellaneous other statutory duties. Persons under the board's jurisdiction are all adult felons committed by superior courts to the Director of Corrections under Penal Code sections 1168 and 1170 and all adult felons sentenced under the Indeterminate Sentence Law.
- (11) Briggs Initiative: Proposition 7, November 7, 1978 general election, specifying new minimum eligible parole release dates for first and second degree murders, effective November 8, 1978.
- (12) C&PR. Classification and Parole Representative: the department employee at each prison who has been designated to be that prison's liaison with the board. Such designation shall be made by the Director of Corrections after consultation with the board.

- (13) California Agency Parolee. A felon released from confinement in a California prison to supervision in a California community who subsequently is within the custody of any agency of the State of California or any subdivision thereof except the Department of Corrections.
- (14) California Agency Prisoner. A prisoner who has been transferred from the custody of the Director of Corrections to the custody of any agency of the State of California or any subdivision thereof.
- (15) California Concurrent Parolee. A prisoner on parole from a California sentence and a sentence of another jurisdiction who is being supervised in a California community pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175-11179).
- (16) Case Conference. A documented conference between a parole agent and his supervisor to discuss a parolee's behavior.
- (17) Central File. A master file maintained by the department containing records regarding each person committed to its jurisdiction. This file is maintained by the institution or parole region to which the person is assigned. See department regulations for the specific contents of this file.
- (18) Central Office. The board office in Sacramento.
- (19) Central Office Calendar. The central office calendar is composed of commissioners or deputy commissioners as designated by the chairman. They are authorized to make decisions regarding matters reported to the board, including the decision to order a hearing scheduled.
- (20) Central Office File. A folder maintained by the department's Chief Records Administrator in Sacramento regarding each felon. The file contains copies of some records and correspondence accumulated during commitment.
- (21) Central Office Hearing Coordinator. The board employee at the central office who is responsible for schedules, attorney appointments, and other services related to hearings.
- (22) Chairperson. The administrative head of the board who is designated by the Governor pursuant to Penal Code section 5075.
- (23) Commissioner. An official of the board appointed by the Governor pursuant to Penal Code Section 5075.
- (24) Community Release Board (CRB). The name of the Board of Parole Hearings prior to the name change effective January 1, 1980. Any references to Community Release Board apply to the Board of Parole Hearings.
- (25) Concurrent Parolee. A prisoner on parole from a California sentence and a sentence of another jurisdiction who is being supervised in a state other than California pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175-11179).
- (26) Concurrent Prisoner. A California prisoner, also under sentence of another state, who is concurrently serving both sentences in a penal institution of the other state.
- (27) Conditions of Parole. The specific conditions under which a prisoner is released to parole supervision.
- (28) Consecutive Prisoner. A California prisoner, also under sentence of another state, who is confined in a penal institution of the other state and whose California term shall commence upon completion of the other state's sentence.
- (29) Consecutive Term. Pursuant to amendments to Penal Code Section 669, effective January 1, 1979, a life term may be imposed consecutive to a determinate term.
- (30) Cooperative Parolee. A felon released from confinement in a California prison to supervision in a state other than California pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175-11179).
- (31) Coordinator Staff. Department (institution and P&CSD) and board staff who coordinate parole postponement, rescission, and revocation hearings.
- (32) CRC. California Rehabilitation Center: a control and treatment institution for civilly committed narcotic addicts.

- (33) Criminal conduct. Conduct constituting a felony or misdemeanor under federal, state, or county law.
- (34) Cum. Sum. Cumulative Case Summary: the permanent and cumulative summary of specific portions of the record maintained by the department regarding each prisoner from reception to discharge.
- (35) Department. The Department of Corrections.
- (36) Deputy Commissioner. An official of the board employed pursuant to Penal Code Section 5076.1.
- (37) DSL. Uniform Determinate Sentencing Act of 1976. Stats. 1976, Chapter 1139 as amended by Stats. 1977, Chapter 165. This refers to sections of the Penal Code and other Codes as they became operative July 1, 1977.
- (38) DOP. A difference of opinion regarding a prisoner's or parolee's case requiring resolution at higher level.
- (39) Director of Corrections. The administrative head of the Department of Corrections appointed by the Governor. See Penal Code sections 5050 and 5051.
- (40) Dispositional Witness. A dispositional witness is one whose expected testimony provides information regarding the overall adjustment of the prisoner or parolee or other factors to be considered when rendering a disposition in a proceeding.
- (41) District Administrator. A parole administrator in the P&CSD with supervisory and managerial responsibilities.
- (42) District Hearing Agent (DHA). The P&CSD staff person responsible for application of specific procedures pertaining to the parole revocation hearing process; the primary liaison between the P&CSD and the board in matters and procedures pertaining to the parole revocation hearing process.
- (43) Effective Discharge Date. The effective discharge date is the latest date on which the jurisdiction of the board and the department over the individual expires.
- (44) Evidentiary Witness. An evidentiary witness is a person who perceived, reported on, or investigated an event material to the proceeding. An event material to a proceeding is an act or omission allegedly committed by the prisoner or parolee which is a basis for the proceeding. An evidentiary witness is one whose expected testimony either supports or refutes an act or omission allegedly committed by the parolee or prisoner.
- (45) Federal Concurrent Prisoner. A California prisoner, also under sentence of the United States, who is concurrently serving both sentences in a federal institution.
- (46) Federal Consecutive Prisoner. A California prisoner, also under sentence of the United States, who is confined in a penal institution of the United States and whose California term shall commence upon completion of the United States' sentence.
- (47) Federal Contract Prisoner. A California prisoner who is confined in a federal institution pursuant to Penal Code section 2911.
- (48) Field File. A working file maintained by a parole unit office containing information about a parolee and his current parole.
- (49) Full Board. The commissioners performing the function of meeting en banc in either public or executive session. At least five commissioners shall participate when performing this function and no action shall be valid unless it is concurred in by a majority vote of those present.
- (50) Good Cause. A finding by the board based upon a preponderance of the evidence that there is a factual basis and good reason for the decision made.
- (51) Good Time Credit. Credit for a DSL prisoner's good behavior and participation in prison program received pursuant to Penal Code section 2930, et seq. Good time credit advances the DSL release date.
- (52) Hearing. A proceeding at which evidence is received for use in deciding factual and dispositional questions.
- (53) Hearing Panel. One or more persons (commissioners, deputy commissioners or a combination thereof) assigned to consider a case or make a decision.

- (54) Hold. A request by a department employee that a parolee be held in custody until further notice. A person under a parole hold is not eligible for bail.
- (55) ICC Prisoner. A California prisoner who is confined in a penal institution of another state pursuant to the Interstate Corrections Compact (See Penal Code section 11189).
- (56) Incarcerating Jurisdiction. The jurisdiction where a WICC, ICC, Federal contract, Federal concurrent or concurrent prisoner is incarcerated.
- (57) Institution Hearing Coordinator. A department employee assigned to coordinate the rescission process within that institution.
- (58) Interstate Unit. The section of the P & CSD which coordinates the supervision of California cooperative parolees and the return of parolees-at-large from asylum states. The Division of the Department of Corrections which has responsibility for federal contract, federal concurrent, WICC, ICC and consecutive prisoners and multijurisdiction parolees incarcerated in the prison of another jurisdiction.
- (59) ISL. Indeterminate Sentence Law. This refers to sections of the Penal Code and other Codes as they were operative prior to July 1, 1977.
- (60) ISL Release Date. The date on which an ISL prisoner may be released from confinement pursuant to the ISL. The release may be a release to parole or a release to discharge.
- (61) Located in California. A multijurisdiction prisoner is located in California if he is a federal contract, federal consecutive or federal concurrent prisoner incarcerated in a federal correctional institution located in California; a California agency prisoner; or an out-to-court prisoner brought before a California court.
- (62) Located Outside California. A multijurisdiction prisoner is located outside California if he is a federal compact, federal consecutive or federal concurrent prisoner incarcerated in a federal correctional institution located outside California; a concurrent prisoner; a consecutive prisoner; a WICC prisoner; an ICC prisoner or an out-to-court prisoner brought before a court outside California.
- (63) Material Evidence. Evidence which has a substantial bearing on matters in dispute and legitimate and effective influence on the decision of a case.
- (64) M.R.D.: Maximum Release Date: the latest date on which a DSL prisoner can be released from confinement. This date is computed by subtracting preprison credit from the period of confinement prescribed by the court and adding this period of time to the reception date. In computing the maximum release date, good time credit is not subtracted. This date shall be recomputed to reflect the addition of any time at large.
- (65) Maximum Term. The longest statutory period of time an ISL nonlife 1168 or life prisoner may remain under the jurisdiction of the board.
- (66) Minimum DSL Date. The earliest date on which a DSL prisoner may be released from prison. This date is computed by subtracting all preprison credit and all possible good time credit from and adding any at-large-time to the period of confinement under the DSL and adding this period of time to the reception date.
- (67) Minimum Eligible Parole Date (MEPD). The earliest date on which an ISL or life prisoner may legally be released on parole. If a prisoner is serving both a life or ISL sentence and a determinate sentence and the determinate sentence release date is later than the statutory MEPD for the life or ISL sentence, the determinate sentence release date is the MEPD.
- (68) Minimum Term. The shortest statutory period of time an ISL prisoner must remain under the jurisdiction of the board, including time in prison and on parole.
- (69) Multijurisdiction Parolee. Any concurrent, California concurrent, California agency, or cooperative parolee.
- (70) Multijurisdiction Prisoner. Any federal contract, federal concurrent, federal consecutive, concurrent, consecutive, California agency, WICC or ICC prisoner.

- (71) NAEA. The Narcotic Addict Evaluation Authority: the releasing authority for persons civilly committed to the custody of the Director of the Department of Corrections for treatment of narcotics addiction. See Welfare and Institutions Code section 3150 et seq.
- (72) Out-to-Court Prisoner. A California prisoner who is temporarily removed from a department institution to be brought before a court to be tried for an offense, to be examined by a grand jury or magistrate, or for any other proceedings.
- (73) Outpatient Clinic. See POC.
- (74) P&CSD. Parole and Community Services Division: department staff who supervise parolees and provide a variety of field services.
- (75) PAL. Parolee at large: an absconder from parole supervision, who is officially declared a fugitive by board action suspending parole.
- (76) Parole Agent. An employee or any of his supervisors in the Department of Corrections who is assigned to supervise adult felons and civilly committed addicts released to the supervision of the P&CSD.
- (77) Parolee. A felon released from confinement in state prison to supervision in the community.
- (78) Parole Consideration Hearing. Any hearing at which a prisoner's parole suitability is considered including an initial parole hearing, subsequent hearing, and rehearing.
- (79) Parole Hold. See Hold.
- (80) Parole Violation. Conduct by a parolee which violates the conditions of parole or otherwise provides good cause for the modification or revocation of parole.
- (81) Parole Violation Extension. An extension of return to custody time for a parolee in revoked status.
- (82) Parole Violator. A parolee who is found to have violated parole and who may be reconfined pursuant to Penal Code section 3057. A parolee returned to prison with a new court commitment is not a parole violator under these rules even if he has been found in violation of parole.
- (83) POC. Parole Outpatient Clinic: a section of the P&CSD which provides psychiatric and psychological treatment and evaluation of parolees.
- (84) Preprison Credit. Credit for time in custody as certified by the court and provided for in Penal Code section 2900.5.
- (85) Probable Cause. A state of facts as would lead a person of ordinary caution and prudence to believe and conscientiously entertain a strong suspicion that the charges are true.
- (86) Rap Sheet. The "State Summary Criminal History Information" containing the arrest and dispositional information defined in Penal Code section 11105.
- (87) RC. Reception center: an institution designated by the director as a center for the reception of prisoners newly committed to the Department of Corrections.
- (88) Receiving State. The state which supervises a cooperative parolee or a concurrent parolee.
- (89) Regional Administrator. Administrator of a geographical region in the P&CSD.
- (90) Regional Hearing Coordinator. The parole agent assigned to coordinate the revocation process within a P&CSD region.
- (91) Relevant Evidence. Evidence which tends to prove or disprove an issue or fact in dispute.
- (92) Revocation File. A file containing the documents pertinent to a particular revocation proceeding.
- (93) Screening Offer. An offer of a disposition to a parolee when revocation or revocation extension charges are pending.
- (94) Sending State. The state where a concurrent parolee was imprisoned.
- (95) Slough File. A file supplemental to the central file containing bulky or seldom needed records.
- (96) Staff Representative. A department employee who assists the board during a hearing.

(97) Subpoena. A means to secure the attendance of a witness at a parole revocation or rescission hearing. It is an order directed to a person requiring that person's attendance at a particular time and place to testify as a witness.

(98) Subpoena Duces Tecum. A means to secure the delivery of documentary evidence to parole revocation or rescission hearings, ordering that person to deliver documentary evidence at a particular time and place and testify about that evidence.

(99) Unadjusted Maximum DSL Date. This date is computed by subtracting preprison credit from the period of confinement under the DSL and adding this period of time to reception date. In computing the unadjusted maximum good time credit is not subtracted. This date does not reflect the addition of any time at large (see Adjusted Maximum DSL Date).

(100) Unit File. See field file.

(101) Unit Supervisor. A supervisor of case-carrying agents in the P&CSD.

(102) WICC Prisoner. A California prisoner who is confined in a penal institution of another state pursuant to the Western Interstate Corrections Compact. (See Penal Code Section 11190.)

(103) Work-Time-Credit: A reduction of the time served for performance in work, training or education programs.

Note: Authority cited: Sections 3041, 3052 and 5076.2, Penal Code. Reference: Sections 187, 189, 205, 209, 217.1, 219, 664, 667.51(c), 667.7, 667.75, 669, 2933, 3041, 3046, 3056, 3057, 3060, 4500, 4801, 5075, 5076.1 and 12310, Penal Code; Section 1672(a), Military and Veterans Code; and Initiative, Proposition 7, November 7, 1978, General Election.

ARTICLE 4. PUBLIC PARTICIPATION is amended:

Section 2029. Victims, Next of Kin, and Immediate Family Members at Hearings is amended:

§ 2029. Victims, Next of Kin, and Immediate Family Members at Hearings.

(a) Notice to Board. Victims or, if the victim has died, the next of kin or immediate family members may, upon request to the Board of Prison Terms, receive notification of any parole consideration hearing, to review or consider the parole suitability ~~or the setting of a parole date~~ for any prisoner in a state prison, so that an opportunity to make a statement is afforded them. The Board shall notify each such person who has informed it of his or her address at least 30 days prior to the hearing date.

(b) Notification and Appearance, Next of Kin. The next of kin and immediate family members shall be entitled to notification and to appear under this section in the following order:

- (1) spouse
- (2) children
- (3) parents
- (4) siblings
- (5) grandchildren
- (6) grandparents

If one person qualifies as the next of kin, he or she shall be entitled to notice and appearance under this section.

(c) Notification and Appearance, Immediate Family Members. If there is no next of kin, immediate family members shall be entitled to notification and to appear under this section in the order specified in subsection (b).

Up to two persons of the categories in descending order are entitled to notice and to appear. More than two persons may appear with the prior approval of a panel member, the chairman, or the executive officer.

(d) Representation by Counsel. The victim, next of kin, or immediate family members may appear personally or be represented by counsel. If counsel and client both attend the hearing, only one may appear by making a statement or addressing the panel.

(e) Support Persons. Victims, next of kin, or immediate family members attending hearings may be accompanied by one support person of his or her own choosing who shall not participate in the hearing nor make comments while in attendance. In order for such person to be admitted to the hearing, the person requesting support shall advise the board of the name of the support person at the time he or she informs the board of his or her intention to attend.

(f) Audio or Video Tapes. In lieu of personal appearance, any victim, next of kin, or immediate family member may submit an audio taped (cassette) or video taped (VHS format) statement, not to exceed 15 minutes in length, to the Classification and Parole Representative of the appropriate institution three weeks before the hearing for consideration by the hearing panel. [The Classification and Parole Representative shall advise the executive officer of the receipt of any such tape and transcript.] Material submitted after this deadline need not be considered. A written transcript must accompany an audio or video taped statement. The tape and transcript shall be placed in the prisoner's central file. The person submitting the tape may request at the time of any subsequent hearing that the board reconsider the tape.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3043, 3043.1, 3043.2, 3043.3, 3043.5, 5075 and 5076.1, Penal Code; and Section 11120, Government Code.

ARTICLE 5. INDIVIDUAL CASE DECISIONS is amended as follows:

Section 2043. Final Date of Decisions is amended:

§ 2043. Final Date of Decisions.

Any proposed decision granting, modifying, or denying a parole date for a life prisoner, ~~exclusive of those made during Progress Hearings~~, shall become final no later than 120 days after the hearing at which the proposed decision was made. No Life Prisoner shall be released on parole prior to 60 days from the date of the hearing.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041 and 3042, Penal Code.

CHAPTER 3. PAROLE RELEASE

ARTICLE 2. INFORMATION CONSIDERED is amended as follows:

Section 2239. Battered Woman Syndrome is amended:

§ 2239. Battered Woman Syndrome.

At parole consideration hearings, the Board panel shall consider any information or evidence of Battered Woman Syndrome (BWS), as defined in section 2000(b), where it appears the criminal behavior was the result of that victimization. The panel shall state, on the record, the information which was considered pursuant to this section, and its effect, if any, on the parole decision. Information regarding BWS may be used by the panel to mitigate culpability for the offense for purposes of suitability for parole, ~~and may be used as a reason for mitigating the base term~~. If sufficient information is not available to determine whether the criminal behavior was the result of that victimization, the panel shall refer the case for investigation.

Note: Authority cited: Sections 3041, 3052 and 5076.2(a), Penal Code. Reference: Sections 3041, 4801, 5075.5 and 5076.1, Penal Code; and Section 1107, Evidence Code.

ARTICLE 4. PAROLE CONSIDERATION PROCEDURES FOR LIFE PRISONERS AND NONLIFE 1168 PRISONERS is amended as follows:

Section 2268. Initial Parole Hearing is amended:

§ 2268. Initial Parole Hearing.

(a) Decision. At the conclusion of the hearing the prisoner shall receive a copy of the proposed decision. If the panel's decision is to grant parole, the proposed decision shall state ~~the period of confinement established, the conditions which must be met in order to be released after serving that period of confinement and the consequences of a failure to meet such conditions.~~ If the panel decision is to deny parole, the proposed decision shall state that parole has been denied.

(b) Multiple Year Denials. In cases in which the panel may deny a subsequent parole hearing for more than one year, it shall utilize the criteria specified in sections 2281 or 2402 as applicable. It shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years. If the board defers a hearing for five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years, at which time the deputy commissioner may direct that a hearing be held within one year if the inmate has been disciplinary free and programming in accordance with board direction since the last hearing. The board shall notify the prisoner in writing of the deputy commissioner's decision.

(c) Review. All proposed decisions shall be reviewed as provided in Section 2041. If the decision is approved or modified without a new hearing, the board shall send a copy of the decision to the prisoner within 20 days of the hearing. If a decision to deny parole is approved, the approved decision shall include the panel's reasons for the denial of parole, activities which might be of benefit during imprisonment, and when the prisoner can expect to have another parole consideration hearing. If the decision is disapproved and vacated, a copy of the disapproved decision and the reasons for ordering a new hearing shall be sent to the prisoner within 30 days.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041, 3041.5, 3041.7 and 5076.1, Penal Code.

Section 2269. Progress Hearing is deleted:

~~§ 2269. Progress Hearing.~~

~~(a) General. At this hearing the hearing panel shall determine whether a previously set parole date should be advanced because of the prisoner's conduct in prison or any change in circumstances under the criteria in Section 2290.~~

~~(b) Scheduling. This hearing shall be scheduled by department staff according to the following schedule:~~

~~(1) If the parole date is less than 10 months from the date of the last parole consideration hearing, no progress hearing shall be scheduled.~~

~~(2) If the parole date is between 10 and 14 months of the date of the last parole consideration hearing, the progress hearing shall be scheduled during the sixth month after the parole consideration hearing.~~

~~(3) If the parole date is between 14 and 18 months of the date of the last parole consideration hearing, the progress hearing shall be scheduled during the ninth month after the parole consideration hearing.~~
~~(4) If the parole date is between 18 and 26 months from the date of the last parole consideration hearing, the progress hearing shall be scheduled during the twelfth month after the parole consideration hearing.~~
~~(5) If the parole date is between 26 and 34 months of the date of the last parole consideration hearing, the progress hearing shall be scheduled during the eighteenth month after the parole consideration hearing.~~
~~(6) If the parole date is between 34 and 50 months of the date of the last parole consideration hearing, the progress hearing shall be scheduled during the twenty-fourth month after the parole consideration hearing.~~
~~(7) If the parole date is 50 months or more from the date of the last parole consideration hearing, the progress hearing shall be scheduled during the thirty-sixth month after the parole consideration hearing.~~
~~(8) Any time department or board staff believes an earlier parole date would be appropriate the case may be placed on the miscellaneous proceedings calendar with documentation of the reasons for requesting a progress hearing. The board may deny the request or order a progress hearing scheduled.~~

~~(c) Prisoner Rights. The prisoner shall have the rights specified in Sections 2245-2255 and the right to have a department representative present at the hearing. The record of the hearing shall be a verbatim transcript.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041, 3041.5 and 5076.1, Penal Code; In re Stanley (1976) 54 Cal.App.3d 1030.~~

Section 2269.1. Documentation Hearings is amended:

§ 2269.1. Documentation Hearings.

(a) General. All life prisoners shall have hearings prior to the minimum eligible parole date.

~~(1) At these hearings the panel shall review the prisoner's activities and conduct considering the criteria in §§ 2290 and 2410 and document activities and conduct pertinent to granting or withholding postconviction credit. When the board establishes a parole date the panel shall consider this information and determine whether to grant or withhold postconviction credit for time served prior to the date of the hearing at which parole is granted. Once the parole date is established, these prisoners shall have progress hearings as provided in § 2269.~~

(2) In order to identify potential cases of Battered Woman Syndrome (BWS), the deputy commissioner or commissioner conducting a documentation hearing shall refer any case to the executive officer in which the prisoner appears to have suffered the effects of BWS as defined in § 2000(b). The purpose of the investigation is to determine whether it appears the criminal behavior was the result of that victimization.

(b) Panel. This hearing shall be conducted by a one person panel and the panel member shall be a commissioner or deputy commissioner.

(c) Scheduling. This hearing shall be scheduled by department staff. The documentation hearing shall be held during the 36th month after the life term starts ~~(See §§ 2289 and 2411(e))~~. Time during which service of the life term is tolled because the prisoner is serving a determinate term shall not be included in determining the scheduling of documentation hearings.

~~Note: Authority cited: Sections 3041 and 5076.2, Penal Code. Reference: Sections 3040, 3041, 3041.5, 4801 and 5076.1, Penal Code; and In re Stanley (1975) 54 Cal.App.3d 1030.~~

§ 2270. Subsequent Parole Hearing is amended:

§ 2270. Subsequent Parole Hearing.

(a) General. At this hearing each prisoner who was previously denied parole shall be reconsidered for parole in the same manner as at the initial parole hearing. The hearing panel shall consider the same information considered at the initial parole hearing and any information developed since the last hearing (Sections 2281-2294).

(b) Panel. This hearing is conducted by a panel of three, at least two of whom shall be commissioners. At least one person on the new panel shall have been present at the last parole consideration hearing unless it is not feasible to do so.

(c) Scheduling. This hearing shall be scheduled as provided in Penal Code Section 3041.5.

(d) Multiple Year Denials. In cases in which the panel may deny a subsequent parole hearing for more than one year, it shall utilize the criteria specified in sections 2281 or 2402 as applicable. It shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years. If the board defers a hearing for five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years, at which time the deputy commissioner may direct that a hearing be held within one year if the inmate has been disciplinary free and programming in accordance with board direction since the last hearing. The board shall notify the prisoner in writing of the deputy commissioner's decision.

(e) Prisoner Hearing Rights. The prisoner shall have the rights specified in Sections 2245-2256. Notice of the hearing shall be given as soon as possible, but no later than 7 days before the hearing. The record of the hearing shall be a verbatim transcript.

(f) Prisoner Post Hearing Rights. The prisoner shall have the rights specified in Section 2268. Notice of the hearing shall be given as soon as possible, but no later than 7 days before the hearing. The record of the hearing shall be a verbatim transcript.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041, 3041.5, 3041.7, 3042, 5075, and 5076.1, Penal Code.

Section 2272. Hearings for Prisoners with New Criminal or Disciplinary Charges Pending is amended:
§ 2272. Hearings for Prisoners with New Criminal or Disciplinary Charges Pending.

(a) Initial Parole Hearing and Subsequent Parole Hearing. A prisoner with new criminal or disciplinary charges pending prior to the initial parole hearing or subsequent parole hearing shall be scheduled for the hearing as provided in this article. If it is determined during the course of the hearing that a decision regarding parole cannot be made because of the pending charges, the hearing panel shall continue the hearing. Department staff shall place the case on the miscellaneous proceedings calendar every 90 days from the date of the originally scheduled hearing with a report of the status of the case. Following conclusion of the criminal or disciplinary charges, the case shall be scheduled for the next regular calendar.

~~(b) Progress Hearing. Department staff shall postpone the progress hearing of any prisoner who has new criminal or serious disciplinary charges pending immediately prior to a regularly scheduled progress hearing. Department staff shall place the case on the miscellaneous proceedings calendar every 90 days from the date of the originally scheduled hearing including a report of the status of the case. Following conclusion of the criminal or disciplinary charges, the case shall be scheduled for the next regular calendar.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041 and 3041.5, Penal Code.

Section 2273. Hearings for Prisoners with Changes in Legal Status is amended:

§ 2273. Hearings for Prisoners with Changes in Legal Status.

Changes in legal status include: a final court decision altering the prisoner's commitment status, modification of the judgment or abstract of judgment, and new commitments.

(a) Before Initial Parole Hearing. The change in legal status shall be considered at the initial parole hearing as regularly scheduled or as would be scheduled by the change in legal status.

(b) After Initial Parole Hearing. If a prisoner's legal status changes after the initial parole hearing, department staff shall immediately schedule the prisoner for a ~~progress or subsequent~~ parole hearing as appropriate.

(c) New Commitment. If a prisoner with a previously established parole date receives a new commitment to state prison the parole date shall be rescinded. No hearing or other board action is required. The department shall record the rescission of the parole date on the grounds that the prisoner has received a new commitment. The prisoner may appeal the rescission only on the grounds that he is not the person sentenced to state prison by the new judgment.

If the new commitment is for a life sentence, the prisoner shall be scheduled for a documentation hearing during the 36th month after commencement of the life term (§ 2269.1) and a parole consideration hearing during the 13th month prior to the new minimum eligible parole date (§ 2268(c)).

If the new commitment is for an indeterminate sentence, the prisoner shall be scheduled for a parole consideration hearing one month before the minimum eligible parole date for the new commitment offense or within 120 days if the M.E.P.D. is within 120 days of receipt of the new commitment (§ 2304).

If the new commitment is for a determinate term, the parole consideration hearing shall be conducted within 60 days of receipt of the new commitment.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041, 3041.5 and 3041.7, Penal Code.

ARTICLE 5. PAROLE CONSIDERATION CRITERIA AND GUIDELINES FOR LIFE PRISONERS AND NON-LIFE 1168 PRISONERS is amended as follows:

Section 2280. General is amended:

§ 2280. General.

A life prisoner shall be considered for parole for the first time at the initial parole consideration hearing. At this hearing, a parole date shall be denied if the prisoner is found to be unsuitable for parole under § 2281(c). ~~A parole date shall be set if the prisoner is found to be suitable for parole under § 2281(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude in respect to the threat to the public. In setting the parole date, the panel shall consider the~~

~~Sentencing Rules for the Superior Courts as they specifically relate to life prisoners. The panel shall also consider the criteria and guidelines set forth in this article for determining the suitability for parole and the setting of parole dates, considering the number of victims of the crime for which the prisoner was sentenced and any other circumstances in mitigation or aggravation.~~

Note: Authority cited for Article 5 (Sections 2280-2292): Section 5076.2, Penal Code. Reference: Section 3041, Penal Code.

Section 2282. Base Term is *deleted*:

~~§ 2282. Base Term.~~

~~(a) General. The panel shall set a base term for each life prisoner who is found suitable for parole. The base term shall be established solely on the gravity of the base offense, taking into account all of the circumstances of that crime. The base offense is the most serious of all life offenses for which the prisoner has been committed to prison.~~

~~The base term shall be established by utilizing the appropriate matrix of base terms provided in this section for the base offense of which the prisoner was convicted. The panel shall determine the category most closely related to the circumstances of the crime. The panel shall impose the middle base term reflected in the matrix unless the panel finds circumstances in aggravation or mitigation.~~

~~If the panel finds circumstances in aggravation or in mitigation as provided in § 2283 or 2284, the panel may impose the upper or lower base term provided in the matrix, stating the specific reason for imposing such a term. A base term other than the upper, middle or lower base term provided in the matrix may be imposed by the panel if justified by the particular facts of the individual case.~~

(b) Matrix of Base Terms for First Degree Murder.

<p>2282(b) First Degree Murder</p> <p>Penal Code § 189 (in years and does not include post conviction credit as provided in § 2290)</p>	<p>A.—Indirect</p> <p>Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack, a crime partner actually did the killing.</p>	<p>B.—Direct or Victim Contribution</p> <p>Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.</p>	<p>C.—Severe Trauma</p> <p>Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.</p>	<p>D.—Torture</p> <p>Victim was subjected to the prolonged infliction of physical pain through the use of nondeadly force prior to act resulting in death.</p>
<p>I. Participating Victim</p> <p>Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred; e.g., crime partner, drug dealer, etc.</p>	8-10-12	10-12-14	11-13-15	13-15-17
<p>II. Prior Relationship</p> <p>Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, see Category IV.</p>	10-12-14	12-14-16	13-15-17	15-17-19
<p>III. No Prior Relationship</p> <p>Victim had little or no personal relationship with prisoner, or motivation for act resulting in death was related to the accomplishment of another crime; e.g., death of victim during robbery, rape, or other felony.</p>	11-13-15	13-15-17	14-16-18	16-18-20
<p>IV. Threats to Public Order or Murder for Hire</p> <p>The act resulting in the victim's death constituted a threat to the public order include the murder of a police officer, prison guard, public official, fellow patient or prisoner, any killing within an institution, or any killing where the prisoner hired and/or paid another person to commit the offense.</p>	13-15-17	15-17-19	16-18-20	18-20-22

(c) Matrix for Kidnapping for Robbery or Ransom:

<p><i>2282(c)</i> <i>Kidnap for Robbery or Ransom</i></p> <p>Penal Code § 209 (in years and does not include post conviction credit as provided in § 2290)</p>		<p><i>A. Minor Movement</i></p> <p>Movement was of short duration and resultant location would not substantially increase risk of harm</p>	<p><i>B. Extensive Movement</i></p> <p>Movement was of lengthy duration or resultant location would substantially increase risk of harm.</p>	<p><i>C. Hostage</i></p> <p>Victim was taken as hostage.</p>	<p><i>D. Planning</i></p> <p>The crime involved intricate prior planning.</p>
<p><i>I. Minor Injury</i></p> <p>Victim unharmed or received minor injury.</p>		8-10-12	9-11-13	10-12-14	11-13-15
<p>V I C T I M</p>	<p><i>II. Victim Assaulted</i></p> <p>Victim was sexually assaulted or otherwise seriously injured or assaulted.</p>	9-11-13	10-12-14	11-13-15	12-14-16
<p><i>III. Major Injury</i></p> <p>Victim's major injuries required extensive treatment or the victim was seriously disabled.</p>		10-12-14	11-13-15	12-14-16	13-15-17
<p><i>IV. Death</i></p> <p>Victim Died.</p>		Use matrix provided in Section 2282(b).			

(d) Matrix for Other Life Crimes:

In considering crimes for which no matrix is provided, the panel shall impose a base term by comparison to offenses of similar gravity and magnitude in respect to the threat to the public, and shall consider any relevant Judicial Council rules and sentencing information as well as any circumstances in aggravation or mitigation of the crime.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3041, Penal Code.

Section 2283. Circumstances in Aggravation of the Base Term is *deleted*:

~~§ 2283. Circumstances in Aggravation of the Base Term.~~

~~(a) General. The panel shall impose the upper base term or another term longer than the middle base term upon a finding of aggravating circumstances. Circumstances in aggravation of the base term for any life crime include:~~

- ~~(1) The crime involved some factors described in the appropriate matrix in a category higher on either axis than the categories chosen as most closely related to the crime;~~
- ~~(2) The victim was particularly vulnerable due to age or physical or mental condition;~~
- ~~(3) The prisoner occupied a position of leadership or dominance over other participants in the commission of the crime, or the prisoner induced others to participate in the commission of the crime;~~
- ~~(4) The prisoner has a history of criminal behavior for which the term is not being enhanced under Section 2286;~~
- ~~(5) During the commission of the crime the prisoner had a clear opportunity to cease but instead continued;~~
- ~~(6) The prisoner has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the prisoner is currently committed to prison;~~
- ~~(7) The prisoner had a special relationship of confidence and trust with the victim, such as that of employee-employer;~~
- ~~(8) The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime;~~
- ~~(9) The prisoner was on probation or parole or was in custody or had escaped from custody at the time the crime was committed.~~

~~(b) Specific Circumstances in Aggravation of First Degree Murder (Penal Code Section 187) Include:~~

- ~~(1) The murder was wanton and apparently senseless in that it was committed after another crime occurred and served no purpose in completing that crime;~~
- ~~(2) The corpse was abused, mutilated or defiled;~~
- ~~(3) The prisoner went to great lengths to hide the body or to avoid detection;~~
- ~~(4) The murder was committed to preclude testimony of potential or actual witnesses during a trial or criminal investigation;~~
- ~~(5) The murder was committed to prevent discovery of another crime;~~
- ~~(6) The murder was committed by a destructive device or explosive; (7) There were multiple victims for which the term is not being enhanced under s 2286;~~

~~(c) Specific Circumstances in Aggravation of Kidnapping for Robbery or Ransom (Penal Code Section 209) Include:~~

- ~~(1) The incident involved multiple victims;~~
- ~~(2) The property or ransom taken or which the prisoner attempted to take had a value of \$25,000 or more;~~
- ~~(3) The kidnapping posed a threat to the public order, such as victim was a public official;~~

~~(d) Specific Circumstances in Aggravation of Other Life Crimes. The hearing panel shall consider any specific factors in aggravation, including those established by the Judicial Council, as they may pertain to setting parole dates for these offenses.~~

Section 2284. Circumstances in Mitigation of the Base Term is *deleted*:

~~§ 2284. Circumstances in Mitigation of the Base Term.~~

~~(a) General. The panel shall impose the lower base term or another term shorter than the middle base term upon a finding of mitigating circumstances. Circumstances in mitigation of the base term for any life crime include:~~

- ~~(1) The crime involved some factors described in the appropriate matrix in a category lower on either axis than the categories chosen as most closely related to the crime;~~
- ~~(2) The prisoner participated in the crime under partially excusable circumstances which do not amount to a legal defense;~~
- ~~(3) The prisoner had no apparent predisposition to commit the crime but was induced by others to participate in its commission;~~
- ~~(4) The prisoner tried to help the victim or sought aid after the commission of the crime or tried to dissuade the crime partner from committing other offenses;~~
- ~~(5) The prisoner has a minimal or no history of criminal behavior;~~
- ~~(6) The prisoner was a passive participant or played a minor role in the commission of the crime;~~
- ~~(7) The crime was committed during or due to an unusual situation unlikely to reoccur;~~
- ~~(8) The crime was committed during a brief period of extreme mental or emotional trauma.~~
- ~~(9) Battered Woman Syndrome. At the time of the commission of the crime, the prisoner suffered from Battered Woman Syndrome, as defined in section 2000(b), and it appears the criminal behavior was the result of that victimization.~~

~~(b) Specific Circumstances in Mitigation of Life Crimes. The hearing panel shall consider any specific factors in mitigation, including those established by the Judicial Council, as they may pertain to setting parole dates for these offenses.~~

~~Note: Authority cited: Sections 3041, 3052 and 5076.2, Penal Code. Reference: Sections 3041 and 4801, Penal Code.~~

Section 2285. Additional Term for the Use of a Firearm is *deleted*:

~~§ 2285. Additional Term for the Use of a Firearm.~~

~~The panel shall impose a specific enhancement of two years if the prisoner personally used a firearm in the commission of any life crime unless the panel states specific reasons for not adding the enhancement.~~

Section 2286. Additional Terms for Other Offenses is *deleted*:

~~§ 2286. Additional Terms for Other Offenses.~~

~~(a) General. The panel shall impose enhancements as provided in this section.~~

If the panel finds circumstances in aggravation or mitigation as provided in ss 2287 or 2288, the panel may impose a higher or lower enhancement, or may impose no enhancement, if the panel states the specific reasons for doing so.

~~(b) Multiple Commitments. An enhancement should be added to the base term if the prisoner has been committed to prison for more than one offense, regardless of whether the sentences are to be served concurrently or consecutively with the life sentence or each other.~~

~~(1) Nonlife Offenses. Except as provided in (3) below, in adding enhancements for nonlife offenses, the panel should be guided by Penal Code Section 1170.1. The panel shall select a principal term and subordinate terms based on the nonlife offenses and add the total term to the term established for the life offense. The term for the nonlife offense shall be the term in effect at the time the prisoner committed the offense.~~

~~(2) Life Sentence Offenses. The enhancement for each life sentence offense in addition to the base term should be seven years.~~

~~(3) Nonlife 1168 Offenses. The enhancement for each nonlife 1168 offense should be six months.~~

~~(c) Prior Felony Convictions. An enhancement should be added to the base term for prior felony convictions as specified in this subsection, regardless of whether the prior felony conviction or prison term was pled and proven. The panel may add less than the determinate enhancement if the prior felony conviction or prison term was not pled and proven. In adding enhancements under this subsection, the panel should consider the date of the prior conviction and the length of time between release from custody and subsequent convictions if the prisoner has never been placed in custody. The period of confinement shall not be increased for convictions or prior prison terms resulting from convictions that have been reversed in court or pardoned by the executive.~~

~~(1) Prior Prison Terms. In adding enhancements for prior prison terms the panel should be guided by the determinate enhancements for prior prison terms.~~

~~(2) Prior Felony Convictions With Probation. An enhancement of six months should be added for each prior felony conviction for which the prisoner was granted probation.~~

~~(d) Additional Term for Disciplinary Offenses. The panel may impose a specific enhancement for serious disciplinary offenses which occurred since arrival in prison but before a parole date is granted. Only disciplinary offenses which might have resulted in rescission proceedings after a parole date had been granted as specified in ss 2451 may be considered for enhancing the total period of confinement. Serious disciplinaries which occur after a parole date has been granted may increase the total period of confinement only after rescission proceedings (see Chapter 4).~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3041, Penal Code.~~

Section 2287. Circumstances in Aggravation of the Additional Term for Other Crimes is deleted:

~~§ 2287. Circumstances in Aggravation of the Additional Term for Other Crimes.~~

~~Circumstances which may justify imposition of a term for another crime higher than that suggested in Section 2286 include:~~

~~(a) Pattern of Violence. A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.~~

~~(b) Numerous Crimes. The other crime was part of a series of crimes which occurred during a single period of time, show a pattern of similar conduct, and resulted in convictions, but have not resulted in enhancement under Section 2286.~~

~~(c) Crimes of Increasing Seriousness. The other crime, when considered with the principal crime, indicates a significant pattern of increasingly serious criminal conduct.~~

~~(d) Independent Criminal Activity. The other crime and its objective were independent of the life crime or the other crime was committed at a different time and place, indicating a significant pattern of criminal behavior rather than a single period of aberrant behavior.~~

~~(e) Status. The prisoner was on probation or parole or was in custody or had escaped from custody when the crime was committed.~~

~~(f) Other. The other crime involved any of the circumstances in aggravation enumerated in the Sentencing Rules for the Superior Courts.~~

Section 2288. Circumstances in Mitigation of the Additional Term for Other Crimes is *deleted*:

~~§ 2288. Circumstances in Mitigation of the Additional Term for Other Crimes.~~

~~Circumstances which may justify imposition of a term for another crime lower than that suggested in Section 2286, or which may justify imposition of no enhancement, include:~~

~~(a) Minor Punishment for Other Crime. The period of incarceration imposed for the other crime as a condition of probation or as the sentence for the other crime is equal to or less than the additional term provided by Section 2286.~~

~~(b) Successful Completion of Probation or Parole. The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following probation or parole.~~

~~(c) Insignificant Prior Record. The other crime is unrelated to the principal offense in time, or in the kind of criminal conduct involved, or in the apparent motivation or cause of the criminal conduct indicating an insignificant pattern of criminal behavior.~~

~~(d) Probation. The prisoner was granted probation after conviction of the other offense.~~

~~(e) Other. The other crime involved any of the circumstances in mitigation enumerated in the Sentencing Rules for the Superior Courts.~~

Section 2289. Fixing a Parole Date: Computation is *deleted*:

~~§ 2289. Fixing a Parole Date: Computation.~~

~~The terms set for the life crime, specific enhancements, and other crimes shall be added together resulting in a total life term. Any preprison credit shall be deducted (see Sections 2342-2344) from and any time at large shall be added to the total life term. The adjusted life term shall be added to the reception date for the life crime.~~

~~The reception date is the date the prisoner was received for the life crime under Penal Code Section 2900 or 1203.2a. If the prisoner was serving a nonlife term at the time of sentencing for the life crime the reception date is the date the prisoner was returned from court with the new life term. If the prisoner was serving a life term at the time of sentencing for another life crime, the reception date is the date the prisoner was received for the original life crime under Penal Code Section 2900 or 1203.2a.~~

~~If the time already served by the prisoner exceeds the term set pursuant to this article, the panel's order shall read "Prisoner to be released upon time already served," and the prisoner shall be released in accordance with Article 9 of this chapter.~~

Section 2290. Postconviction Credit is *deleted*:

~~§ 2290. Postconviction Credit.~~

~~(a) General. Life prisoners may earn postconviction credit for each year spent in state prison. Postconviction credit for time served prior to the hearing at which a parole date is established shall be considered at that parole consideration hearing. Thereafter, postconviction credit for time served since the last hearing shall be considered at progressive hearings. In no case may postconviction credit advance a release date earlier than the minimum eligible parole date. Provided, however, postconviction credits which would advance the parole release date to less than 180 days from the date of the hearing shall not be granted unless or until the parole review authority of the Governor is exercised pursuant to Penal Code section 3041.1.~~

~~(b) Amount of Credit. Postconviction credit shall be granted to life prisoners in a manner which allows similar amounts of time to prisoners in similar circumstances.~~

~~The suggested amount of postconviction credit is 4 months for each year served since the date the life term started. The board may grant more or less than 4 months annual postconviction credit when the prisoner's performance, participation or behavior warrants such adjustment of credit. Less than 4 months credit may be granted if the prisoner fails to meet the general expectations set forth in Section 2290(c). More than 4 months credit may be granted if the prisoner demonstrates exceptional performance in a work assignment, exceptional participation in self-help or rehabilitative programs, or other exemplary conduct. If a panel grants more than 4 months of postconviction credit at an annual hearing, the case shall be reviewed as provided in Sections 2041-2043.~~

~~(c) Criteria. In determining the amount of postconviction credit to be granted, the panel shall consider the following:~~

~~(1) Performance in Institutional Work Assignments. All life prisoners are presumed to work and to perform satisfactorily in work assignments (see CDC Rules 3040 and 3041). Lack of a work assignment shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of work assignments at the institution, the prisoner's custody status, and any other impediments to the prisoner's receiving a work assignment.~~

~~(2) Participation in Self-help and Rehabilitative Programs. All life prisoners are presumed to participate in programs for self development (refer to CDC Rules 3040 and 3041). Lack of program participation shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of programs at the institution, the prisoner's custody status, and any other impediments to the prisoner's participation in programs.~~

~~(3) Behavior in the Institutional Setting. All life prisoners are presumed to behave in a disciplinary-free manner, in accordance with state law and departmental regulations (refer to CDC Rules 3000-3021). However, a minor disciplinary offense shall not necessarily prevent the granting of postconviction credit.~~

~~(d) Credit Not Granted. No annual postconviction credit shall be granted in the case of any prisoner who commits serious or numerous infractions of departmental regulations, violates any state law, or engages in other conduct which could result in rescission of a parole date (see Section 2451), unless the panel finds evidence in mitigation and supports such finding with a statement of its reasoning. Consistent unsatisfactory performance in work assignments, consistent failure to engage in program participation, or consistent overall negative behavior demonstrated by numerous minor disciplinary reports may, individually or cumulatively, justify the withholding of annual postconviction credit which otherwise could have been granted.~~

~~(e) Change in Parole Date. Once postconviction credit is granted for a particular year of imprisonment, the credit shall be applied to any new term established after rescission or reconviction after a reversal.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3041, Penal Code. In re Stanley, 54 Cal.App.3d 1030 (1976).~~

Section 2291. New Crimes is *deleted*:

~~§ 2291. New Crimes.~~

~~New crimes committed by the prisoner shall be dealt with in accordance with Section 2286.~~

Section 2292. Retroactivity is *amended*:

Section 2292. Retroactivity.

(a) General. All life prisoners committed to state prison for crime(s) committed prior to July 1, 1977 shall be heard in accordance with rules in effect prior to 7/1/77. All life prisoners heard after the effective date of these regulations, who have been committed to state prison for crime(s) committed after 7/1/77, shall be heard in accordance with this article.

(b) No Parole Date Was Set Prior to July 1, 1977. The hearing panel shall deny parole or set a parole date as provided in Sections 2281-2290.

(c) Parole Date Was Set Prior to July 1, 1977. The hearing panel shall deny parole or set a parole date as provided in Sections 2281-2290 as though no parole date had been set previously. If the parole date is earlier than a parole date set before the effective date of these regulations, the date set under these regulations is the controlling parole date. If the parole date is later than the previous date, the previous date is the controlling parole date.

Postconviction Credit. In determining the amount of postconviction credit appropriate for a prisoner's conduct during a specified period of time, the panel shall apply the guidelines under which the parole date was originally established. For example, a prisoner who had a parole date established under guidelines in effect prior to July 1, 1977 shall be considered for postconviction credit under the guidelines in effect prior to July 1, 1977. Any credit granted under those guidelines shall advance the parole date established under those guidelines. If a prisoner also has a parole date established under Section 2282 the panel shall determine the amount of credit applicable under Section 2290, and that credit shall be deducted from the parole date established under Section 2282.

(d) Parole Violators. Life prisoners whose paroles were revoked prior to July 1, 1977, shall have parole dates set as provided in subsections (1) and (2) of this section:

(1) Returned to Finish Term. The hearing panel shall set a parole date as provided in Sections 2281-2290. The life crime shall be the base crime. The parole violation that resulted in the return to prison shall be considered as an adjustment for postconviction factors and may increase the period of confinement for the life crime by an amount of time the hearing panel determines to be appropriate for the particular violation. If after application of preprison credit and at large time, the base period of confinement life term expires prior to commission of the offenses resulting in the violation, the prisoner will be paroled effective 60 days after the hearing.

(2) With New Term.

(A) Life Sentence. If the new term includes a life sentence, the hearing panel should discharge the original life term and deny parole or set a parole date for the new life sentence adding time for any nonlife commitments as multiple commitment offenses pursuant to Sections 2281-2290. The action to discharge the original term shall be to set a parole date on the original life term effective 60 days after the date of the hearing and to waive parole on the original life term.

(B) Nonlife Sentence. If the new term includes only nonlife sentences the hearing panel shall first consider whether to discharge the original life sentence. In making this determination the panel shall consider: the date on which the prisoner was originally received on the life crime, the length of time the prisoner served prior to parole on the life crime, the length of the term for the new nonlife commitments, the length of time the prisoner served on parole prior to committing the new crime and the prisoner's parole adjustment. If the prisoner served a lengthy term prior to release on parole or has a new nonlife term that will extend three or more years beyond the period of confinement that could be set for the life crime the panel may discharge the original life term by setting a parole date on the life crime to be sixty days after the hearing and waiving parole on the life crime. The prisoner will then have an 1170.2(a) DSL release date calculated and ISL parole hearings.

If the panel determines that the original life sentence should not be discharged, the panel shall set a parole date and may use the life crime as the base crime and making adjustments for the new crimes. In determining an appropriate adjustment for the new crime the panel shall follow the suggested terms in Section 2286. If, after the application of pre-prison credit, the term on the life crime expires prior to the commission of the new crimes, the decision at the parole hearing will be deemed a discharge on the original life term, effective 60 days after the hearing and the prisoner will have an 1170.2(a) DSL release date calculated and ISL parole

hearings on the ISL crimes. If the term on the life crime does not expire prior to the commission of the new crimes, the prisoner remains a life prisoner and the parole date set at the parole hearing shall be the parole date as provided in subsections (b) and (c) above.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2 and 3041, Penal Code; In re Stanley, 54 Cal. App. 3d 1030 (1976); and In re Stanworth, 33 Cal. App. 3d 176 (1976).

ARTICLE 6. PAROLE CONSIDERATION PROCEDURES FOR ISL PRISONERS is amended as follows:

Section 2304. Initial Parole Hearing is amended:

§ 2304. Initial Parole Hearing.

(a) General. At this hearing the prisoner shall be considered for parole for the first time. The hearing panel shall first determine whether the prisoner is unsuitable for parole under the criteria in Section 2316. If the prisoner is found unsuitable, parole shall be denied, and a written statement of the specific factual reasons for the denial shall be given to the prisoner. The hearing panel may recommend to the prisoner what steps may be undertaken to enhance the possibility of a grant of parole at a future hearing.

~~If a prisoner is found suitable for parole, a tentative parole date shall be set as provided in Sections 2318-2328 utilizing the factors of Section 2317 and the ranges of Section 2329.~~

(b) Scheduling. The initial parole hearing shall be scheduled as follows:

(1) MEPD within 120 days.

A prisoner whose MEPD is within 120 days of reception shall be scheduled within 120 days of reception.

(2) MEPD over 120 Days.

A prisoner whose MEPD is more than 120 days after reception shall be scheduled one month before the MEPD.

Section 2305. Progress Hearing is deleted:

~~§ 2305. Progress Hearing.~~

~~(a) General. At this hearing the hearing panel shall determine whether a previously set parole date should be advanced due to the prisoner's conduct in prison or any change in circumstances as provided in 2324(b). The reasons for advancing or not advancing the parole date shall be documented by the hearing panel.~~

~~(b) Scheduling. The hearing shall be scheduled by department staff according to the following schedule:~~

~~(1) If the parole date is within 9 months of the date of the last parole consideration hearing, no progress hearing shall be scheduled.~~

~~(2) If the parole date is between 10 and 14 months of the date of the last parole consideration hearing, this hearing shall be scheduled during the fourth month prior to the parole date.~~

~~(3) If the parole date is 15 months or more of the date of the last parole consideration hearing, this hearing shall be scheduled at the twelfth month after the hearing at which the parole date was set and annually thereafter.~~

~~(4) Any time department staff feels an earlier parole date would be appropriate, department staff shall place the case on the institutional miscellaneous proceedings calendar with documentation of the reasons for requesting the progress hearing. The board may deny the department request or may order a progress hearing scheduled.~~

~~(5) A progress hearing shall not be scheduled for a prisoner with an ISL parole date which is later than a confirmed DSL release date if the maximum advancement that could be granted at the progress hearing (4 months per year) plus a 60-day advancement would not result in advancing the ISL parole date to a date earlier than the DSL release date.~~

~~If department staff believes that the prisoner may warrant an advancement of more than 4 months, the case may be placed on the miscellaneous proceedings calendar for review.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: In re Stanley, 54 Cal.App.3d 1030 (1976) and Section 1170.2, Penal Code.~~

Section 2306. Subsequent Parole Hearing is *amended*:

§ 2306. Subsequent Parole Hearing.

(a) General. At this hearing each prisoner who was previously denied parole shall be reconsidered for parole in the same manner as at the initial parole hearing. The hearing panel shall consider the information developed since the last hearing applying the criteria of Sections 2316-2347.

(b) Scheduling. This hearing shall be scheduled 12 months after the most recent hearing and annually thereafter.

Section 2308. Hearings for Prisoners with Changes in Legal Status is *amended*:

§ 2308. Hearings for Prisoners with Changes in Legal Status.

Changes in legal status include: a final court decision altering the prisoner's commitment status, modification of the judgment or abstract of judgment, and new commitments.

(a) Before Initial Parole Hearing. If a prisoner's legal status changes before the initial parole hearing, the change in legal status shall be considered at the initial parole hearing as regularly scheduled or as would be scheduled considering the change in legal status.

(b) After Initial Parole Hearing. If a prisoner's legal status changes after the initial parole hearing, department staff shall immediately schedule the prisoner for a ~~progress or~~ subsequent parole hearing as appropriate.

(c) New Commitment. If a prisoner with a previously established parole date receives a new commitment to state prison the parole date shall be rescinded. No hearing or other board action is required. The department shall record the rescission of the parole date on the grounds that the prisoner has received a new commitment. The prisoner may appeal the rescission only on the grounds that he is not the person sentenced to state prison by the new judgment.

If the new commitment is for a life sentence, the prisoner shall be scheduled for a documentation hearing during the 36th month after commencement of the life term (§ 2269.1) and a parole consideration hearing during the 13th month prior to the new minimum eligible parole date (§ 2268(c)).

If the new commitment is for an indeterminate sentence, the prisoner shall be scheduled for a parole consideration hearing one month before the minimum eligible parole date for the new commitment offense or within 120 days if the M.E.P.D. is within 120 days of receipt of the new commitment (§ 2304).

If the new commitment is for a determinate term, the parole consideration hearing shall be conducted within 60 days of receipt of the new commitment unless no parole consideration hearing is required under § 2310.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2 and 3041, Penal Code

Section 2309. Hearings for Prisoners with Confirmed 1170.2 Release Dates is amended:

§ 2309. Hearings for Prisoners with Confirmed 1170.2 Release Dates.

Any ISL prisoner who has a confirmed 1170.2(a) release date which will occur less than 60 days after a scheduled ISL parole hearing will be removed from the ISL calendar and released on this 1170.2(a) release date. An 1170.2(a) release date is confirmed when the calculation of the determinate term has been signed by three commissioners or deputy commissioners of the board.

If the prisoner may have a special or particular parole plan which could warrant the advancement of the ISL date to a date earlier than his DSL date the case shall be placed on the miscellaneous proceedings calendar.

~~The board will review the case to determine if a progress hearing is warranted.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2, 5075 and 5076.1, Penal Code.

Section 2310. Hearings for Prisoners Serving ISL and DSL Terms is amended:

§ 2310. Hearings for Prisoners Serving ISL and DSL Terms.

(a) General. Prisoners serving both ISL and DSL terms shall have an ISL parole consideration hearing only if the board could set an ISL parole date that would result in a release earlier than the release date calculated under Penal Code Section 1170.2. If an ISL parole consideration hearing is required, it shall be held as provided in Section 2304. ~~At the ISL parole consideration hearing the panel will set a period of confinement for the ISL sentence only, disregarding any crimes for which the prisoner received a determinate sentence.~~

(b) Concurrent ISL and DSL Terms. A prisoner serving concurrent ISL and DSL terms shall be scheduled for an ISL parole consideration hearing only if the minimum DSL release date on the ISL term is:

- (1) later than the DSL release date on the DSL term and
- (2) more than sixty days later than the MEPD on the ISL term.

(c) Consecutive ISL and DSL Terms. A prisoner serving consecutive ISL and DSL terms shall be scheduled for an ISL parole consideration hearing only if the minimum DSL release date on the combined ISL and DSL terms is:

- (1) later than the DSL release date on the DSL term considered alone (as if it were concurrent) and
- (2) more than 60 days later than the earliest eligible parole date computed by adding the MEPD on the ISL term and the minimum DSL on the DSL term standing alone.

If a prisoner who was not scheduled for a hearing loses good time credit the earliest eligible release date, combined DSL release date and DSL release date on the DSL term shall be recalculated. The prisoner shall be scheduled for a hearing only if the requirements of (1) and (2) above are met. The hearing shall be held within two months of the loss of good time credit.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 1170.2, Penal Code.

ARTICLE 7. PAROLE CONSIDERATION CRITERIA AND GUIDELINES FOR ISL PRISONERS is amended as follows:

Section 2315. General is amended

§ 2315. General.

~~In considering an ISL prisoner for parole, the hearing panel shall consider the criteria and be guided by the ranges suggested in this article in setting a parole date. Applying the criteria in 2316, the hearing panel shall~~

first determine whether the prisoner is unsuitable for parole. If the prisoner is found unsuitable, parole shall be denied. If the prisoner is found suitable for parole, the hearing panel shall consider the criteria in 2317 to determine the total period of confinement. The hearing panel shall determine the period of confinement following the procedures in 2318–2328.

Section 2317. Fixing a Parole Date: Criteria is deleted:

§ 2317. Fixing a Parole Date: Criteria

(a) General. If the prisoner is found suitable for parole, in setting a parole date the hearing panel shall consider the seriousness of the offense and any relevant criteria described in the sentencing rules the Judicial Council may issue.

(b) Specific Aggravating Factors. Aggravating circumstances are those which relate solely to the commitment offense and tend to increase the seriousness of the offense. Examples of specific aggravating circumstances by offense include:

(1) Homicide.

(A) Multiple victims.

(B) Method of killing vicious in nature where suffering is deliberately inflicted.

(2) Violence against a Person.

(A) Extent of injury, such as injury which caused permanent loss of body organ or limb; created long standing serious medical or psychiatric problems; or required extensive hospitalization.

(B) Manner of infliction, such as a vicious assault continuing after victim incapacitated or prolonged torture.

(C) Injury to peace officer intended to prevent performance of his duty.

(3) Sexual Offenses.

(A) Physical harm, such as injuries which required hospitalization or extensive medical treatment or injuries which were inflicted beyond accomplishing sexual act.

(B) Psychological harm, such as a victim forced to participate in front of family or friends; lack of concern for unusual condition of victim such as age, pregnancy, or physical disability; or the offense was committed in a manner that might increase the likelihood of psychological harm.

(4) Property Crimes with Threat to Persons.

(A) Extent of force or threat, such as force or threat exceeded what was necessary to accomplish act or force or threats continued after property was acquired.

(B) Systematic in nature, such as the planning indicates the crime was a part of a larger criminal scheme or organization; the crime was part of a large scale effort to disrupt business or safety; or the crime was done for hire.

(5) Crimes Against Property.

(A) Harm to victim, such as a victim left destitute or suffers substantial losses; a victim physically or sexually abused in course of offense.

(B) Systematic in nature, such as when the crime is part of a complex scheme or criminal network or is repeatedly practiced on unsophisticated victims.

(6) Weapons Offenses. Potential for harm, such as bringing a weapon into an institution by a person with privileged access; bringing a weapon into an institution as part of a plan for escape or injury; possession or manufacture of bombs or weapons by an organization planning injury or destruction; or possession of a firearm by an ex-felon where the circumstances indicate the great likelihood of further criminal use or actual criminal use.

(7) Drugs. Size and scope of operation, such as an extensive volume of drugs or the manufacture of drugs with professional chemical equipment.

~~(8) Family Offenses.~~

~~(A) Act resulted in prolonged hospitalization, deformity, or disfigurement.~~

~~(B) Act was repeated over a prolonged period of time.~~

~~(C) Victim was totally defenseless.~~

~~(D) Other family members forced to witness abuse.~~

~~(9) Escape Offenses. Extent of violence or threat used to effect escape.~~

~~(10) Miscellaneous Offenses. Harm and scope of operation such as perjury meant to seriously injure another's life or liberty; the act seriously undermines the integrity of the governmental process or faith therein or otherwise is an abuse of a fiduciary position; a conspiracy as part of a large scale criminal operation.~~

~~(e) Specific Mitigating Circumstances. Mitigating factors are those which relate solely to the commitment offense and which tend to lessen the seriousness of the offense, including circumstances in mitigation which do not amount to a full legal defense.~~

~~Examples of mitigating circumstances by offense include:~~

~~(1) Violence (including homicide):~~

~~(A) Provocation by victim such as verbal threats by victim or physical harassment by victim.~~

~~(B) Elements of self-defense, for example the victim was armed or had a great physical advantage.~~

~~(C) Motivation such as whether the violence was not foreseeable or was due to unique circumstances not likely to recur.~~

~~(D) Battered Woman Syndrome. At the time of the commission of the crime, the prisoner suffered from Battered Woman Syndrome, as defined in section 2000(b), and it appears the criminal behavior was the result of that victimization.~~

~~(2) Property Offenses.~~

~~(A) Economic need not likely to recur.~~

~~(B) Relatively small actual losses involved.~~

~~(C) Any restitution made.~~

~~(3) Escape.~~

~~(A) Escapee has been threatened or assaulted or is in fear for his life.~~

~~(B) Escapee's family has been assaulted or threatened and escapee fears for their safety.~~

Note: Authority cited: Sections 3041, 3052 and 5076.2(a), Penal Code. Reference: Sections 3041 and 4801, Penal Code.

Section 2319. Definitions is deleted:

§ 2319. Definitions.

~~(a) Total Period of Confinement. The total period of confinement is the full length of imprisonment established by the board on all crimes for which a prisoner was committed to prison without application of preprison credit. The total period of confinement may be increased after a rescission hearing or decreased after a progress hearing. The total period of confinement shall be established by adding the base period of confinement and the adjustments.~~

~~(b) Base Crime. The base crime is the current commitment crime, or if there are multiple commitment crimes, the one designated by the hearing panel as the most serious.~~

~~(c) Base Period of Confinement. The base period of confinement is that portion of the total period of confinement which reflects the seriousness of the base crime.~~

~~(d) Adjustments. Adjustments are any periods of time added to or subtracted from the base period of confinement which increase or decrease the total period of confinement for the factors specified in s 2321-2324.~~

Section 2320. Base Period of Confinement is *deleted*:

~~§2320. Base Period of Confinement.~~

~~The base period of confinement shall be established solely on the gravity of the base crime as determined by the hearing panel, taking into account all of the circumstances of that crime (s 2317).~~

~~(a) Base Crime. The hearing panel shall determine the base crime, which shall be the most serious of the commitment crimes.~~

~~(b) "Typical" or "Aggravated." The hearing panel shall consider the factors of s 2317 in determining whether the base crime was typical or aggravated. Characterization of a base crime as typical or aggravated shall be based solely on the seriousness of the base crime. The hearing panel shall list specific, factual reasons for characterizing a crime as typical or aggravated.~~

~~(c) Set Base Period of Confinement. Once the crime has been characterized as typical or aggravated, the hearing panel may use the range suggested for that crime in s 2329 as a guideline in setting the base period of confinement.~~

~~(d) Reasons. The specific, factual reasons for establishing the base period of confinement shall be documented by the hearing panel.~~

Section 2321. Adjustment: General is *deleted*:

~~§ 2321. Adjustment: General.~~

~~(a) Reasons. The specific, factual reasons for making any adjustment in the total period of confinement for the factors enumerated in s 2322-2324 shall be given in writing by the hearing panel.~~

Section 2322. Adjustments for Preconviction Factors is *deleted*:

~~§ 2322. Adjustments for Preconviction Factors.~~

~~(a) Criminal History. The prisoner's criminal history may increase the total period of confinement, but if the criminal history is old (the prisoner was released from federal, state or local custody after conviction of a felony and not returned to federal, state or local custody for a period of five years from the date of release) the criminal history shall not be used to adjust the total period of confinement unless the conduct which resulted in the criminal history forms a pattern with the current commitment crimes. The period of confinement shall not be increased for convictions, or prior prison terms resulting from convictions, that have been reversed in court or pardoned by the executive. When old criminal history is used to extend the total period of confinement, the hearing panel shall document the pattern of conduct. Criminal history falls into four categories, each of which is mutually exclusive. Types of criminal history which shall be considered are:~~

~~(1) Prior Prison Terms. Felony convictions which were so serious that they resulted in a prison sentence shall be given the greatest weight. A prior prison term is one for which the prisoner was committed to prison and paroled or discharged or may be a prison term that has not been discharged if a prisoner is convicted of new crimes during his commitment for other crimes. A previous commitment to prison for several crimes shall be treated as a single prison term. Prior prison terms include any conviction in a state or federal court which~~

resulted in the individual's having actually served a prison term in any state or federal prison for an offense which would be a felony in California or previous commitments to the Department of Corrections where the prisoner was released on parole and returned as a parole violator with new term.

Each prison term shall be evaluated for the seriousness of the conduct which resulted in the prison term to determine whether it warrants increasing the total period of confinement.

(2) ~~Prior Felony Convictions Pled and Proven.~~ Prior felony convictions which did not result in a prison term, but which were pled and proven as part of the current sentence to prison are usually given lesser weight than prior prison terms.

(3) ~~Other Convictions.~~ Other criminal conduct which resulted in conviction, but did not result in a prison term and was not pled and proven as part of the present sentence to prison is usually given least weight.

(4) ~~Lack of Criminal History.~~ A complete lack of or very minor criminal history may reduce the total period of confinement.

(b) ~~Other Preconviction Factors.~~ Other preconviction factors may also affect the total period of confinement. Examples of other preconviction factors include the prisoner's personal and social history, family and marital history, employment history, intelligence and education, skills already acquired and physical and emotional health.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2, 3041, and 3060, Penal Code.

Section 2323. Adjustments for Commitment Factors is *deleted*:

§ 2323. Adjustments for Commitment Factors.

(a) ~~Multiple Crimes.~~ The total period of confinement may be increased for multiple crimes. Multiple crimes are crimes in addition to the base crime which resulted in commitment to prison and occurred prior to arrival in prison. If the prisoner had been in prison prior to the current commitment, multiple crimes are crimes which were committed after the most recent release from prison. Any increase in the total period of confinement shall be commensurate with the severity of the crime.

(b) ~~Sentencing Status.~~ The total period of confinement may be increased or decreased because of the prisoner's sentencing status. A consecutive sentence to prison imposed by the court under Penal Code # 669 or required by statute may be interpreted as a recommendation for severity and the total period of confinement may be increased. A sentence for a youthful offender under Penal Code # 1202b may be interpreted as a recommendation for leniency by the committing court and the total period of confinement may be decreased. In making any adjustment for a prisoner's sentencing status, the hearing panel shall give consideration to any statements made by the committing court under Penal Code # 1203.01, 3022 or 3042.

These adjustments to the parole date may occur in addition to the effect the sentence has on the prisoner's minimum or maximum term and minimum eligible parole date.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 1170.2, Penal Code.

Section 2324. Adjustments for Postconviction Factors is *deleted*:

§ 2324. Adjustments for Postconviction Factors.

(a) ~~Prison Crimes.~~ The hearing panel may increase the total period of confinement for crimes which occurred in prison.

(1) ~~Court Convictions: New Prison Commitment.~~ The parole date for these offenses shall be established as provided in 2328.

~~(2) Court Conviction: No New Prison Commitment. The total period of confinement may be increased for court convictions which did not result in a new prison commitment and which occurred since arrival in prison but before a parole date is granted.~~

~~Court convictions which occur after a parole date is granted may increase the total period of confinement only after rescission proceedings. See Chapter 4.~~

~~(3) Disciplinary Offenses. The total period of confinement may be increased for serious disciplinary offenses which occurred since arrival in prison but before a parole date is granted. Only disciplinary offenses which might have resulted in rescission proceedings after a parole date has been granted shall affect the total period of confinement. These offenses are specified in 2451. Serious disciplinary offenses which occur after a parole date is granted may increase the total period of confinement only after rescission proceedings. See Chapter 4.~~

~~(b) Other Postconviction Factors. The total period of confinement may be decreased for other postconviction factors. Factors that may reduce the period of confinement include:~~

~~(1) Achievement of significant skills which substantially reduce the likelihood that new crimes will be committed.~~

~~(2) Significant improvement in self control, such as may be demonstrated over a period of time by good conduct, good work habits, and good relationships with others.~~

~~(3) Outstanding work performance.~~

~~(4) Acceptance of new responsibilities indicating an increased ability to lead a crime-free life.~~

~~(5) Assistance in maintaining prison order.~~

~~(6) Constructive use of leisure time.~~

~~(7) Support from the community as demonstrated by visits and assistance from members of the community.~~

~~(8) Unusual service to the community.~~

~~(9) Positive efforts to develop community resources.~~

~~(10) Cell study and other academic achievement.~~

~~(11) Voluntary work assignments.~~

~~(12) Significant participation and demonstrated progress in psychiatric or self-improvement programs.~~

~~(13) Substantial gains in alleviating the personal condition which caused the crime.~~

~~(14) Changes in circumstances such as elimination of or substantial change in the personal, economic or social factors involved in the crime or change in the circumstances or environment into which the prisoner is to be released.~~

~~(c) Amount and Criteria. The criteria for earning credit and the amount of credit to be granted are specified in 2290(b)-(d).~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 1170.2 and 3041, Penal Code. In re Stanley, 54 Cal.App.3d 1030 (1976).~~

Section 2325. Weapons is deleted:

§ 2325. Weapons.

~~The use or possession of weapons may increase the total period of confinement. If the circumstances of the crime indicate the use or possession of weapons in the base offense, this factor shall be considered in fixing the base period of confinement, or in fixing the adjustment for the multiple crime under s 2323(a) if the weapon was used in a crime which results in a multiple crime adjustment.~~

If the use or possession of weapons has resulted in a separate consecutive sentence, the total period of confinement may also be increased because of consecutive sentence under s 2323(b).

Section 2326. Criminal Charges Not Resulting in a Prison Sentence is *deleted*:

~~§ 2326. Criminal Charges Not Resulting in a Prison Sentence~~

~~(a) No Conviction. Criminal charges not resulting in conviction (charges which resulted in acquittal or dismissal for any reason) shall not affect the parole date unless the factual circumstances surrounding the charge are reliably documented and are an integral part of the crime for which the prisoner is currently committed to prison.~~

~~(b) Conviction. Criminal charges resulting in conviction but not commitment to prison (such as convictions upon which sentencing was suspended or stayed) may be considered as part of the individual's criminal history (secs 2322(a)) or as an integral part of the circumstances of an offense for which the prisoner is currently committed to prison.~~

Section 2328. New Commitments is *deleted*:

~~§ 2328. New Commitments.~~

~~Any time a prisoner is committed to prison for a crime committed while in prison or while an escapee, a parole date shall be calculated as follows:~~

~~(a) New Crimes. A period of confinement shall be determined as provided ins 2318-2326 for the new crime. No adjustment shall be made for the earlier crime except as provided under subsection (c) below.~~

~~(b) Earlier Crimes. The period of confinement which would have been served for the earlier crimes shall be calculated as provided ins 2318-2326 and documented. The time actually served on the earlier crimes shall be deducted from this period of confinement. The time which has not yet been served shall be referred to as the "remaining portion."~~

~~(c) New Period of Confinement. The remaining portion of the earlier crime shall be added to the period of confinement set for the new crime under subsection (a) to arrive at the total period of confinement for the new crime. The period of confinement for the new crime begins upon the expiration of the period of confinement for the earlier crime.~~

~~If the remaining portion of the earlier crime is less than the time that would have been added if the earlier crime were a prior prison term, the hearing panel shall make an adjustment equal to the prior prison term adjustment.~~

Section 2329. Suggested Base Ranges is *deleted*:

~~§ 2329. Suggested Base Ranges.~~

~~In determining the base period of confinement, the hearing panel shall assess the individual's culpability for the crime as appropriate under the facts and circumstances of each individual case. The following ranges are suggested for two purposes:~~

~~(1) to give the prisoner and the public a general idea of how much time might be served in average cases for a variety of common offenses; and~~

~~(2) as general guidelines only which may be utilized by hearing panels as aids in determining an individual's actual base period of confinement. The suggested ranges are general guides only. Less serious crimes of a particular type shall be set below the suggested ranges as appropriate under the facts and circumstances of each case down to the minimum term or minimum eligible parole date. More serious crimes of a particular type shall be set above the suggested ranges up to the maximum, as appropriate under the facts and circumstances of each case.~~

~~The total period of confinement may be higher or lower than these ranges after adjustment for other relevant factors.~~

SUGGESTED RANGES

	Parole (mos)	
	Base Period	
	Typical	Aggravated
(a) Homicide:		
(1) Murder 2 nd (187, 20mos, 5 life)	(36-84)	
(2) Att Murder (644/187, 6mo, 6mo-20)	(38-44)	(45-60)
(3) M/S (vol) (192.1, 6mo, 6mo-15)	(31-42)	(43-48)
(4) M/S (invol) (192.2, 6mo, 6mo-15)	(24-36)	(37-42)
(5) Att M/S (664/192.2, 6mo, 6mo-7 1/2)	(20-24)	(25-30)
(6) M/S (by auto) (192.3, 6mo, 6mo-5)	(18-22)	(23-30)

	Parole (mos)	
	Base Period	
	Typical	Aggravated
(b) Violence Against a Person:		
More Serious		
(1) Administer Poison (216, 40mo, 10 life)	(40-46)	(47-72)
(2) Pose as Kidnapper (210, 20mo, 5 life)	(30-38)	(39-44)
(3) ADW on Police Officer/Fireman by Ex-Felon (245 (b), 20 mo, 5 life) (Prior to 9/17/65 6mo, 6mo-15)	(30-38)	(39-44)
(4) Hostage (4503, 20mo, 5 life)	(30-38)	(39-44)
(5) Attempt of above (644/_, 6mo, 6mo-20)	(28-36)	(37-38)
Serious	(18-32)	(33-38)
(6) Kidnapping (207, 1yr, 1yr-25)		
(7) Assault w/intent to Commit Rape, etc. (220, 1yr, 1yr-20)		
(8) ADW or Assault w/Force Likely to Produce GBI (245(a), 6mo, 6mo life) (Prior to 11/23/70 6mo, 6mo-10)		
(9) Assault w/intent to Commit Murder (217, 1yr, 1-14)		
(10) ADW on Police Officer/Fireman 245(b), 6mo, 6mo life) (9/17/65-11/23/70, 6mo, 6-15) (Prior to 9/17/65, 6mo, 6mo-10)		
(11) Child Stealing (278, 6mo, 6mo-20)		
(12) Assault by Prisoner Serving Less Than Life (4501, 1yr, 3 life)		
(13) Attempt of above (664/_, 6mo, 6mo-1/2 max or 6mo-20 if max life)	(20-28)	(29-36)
Less Serious	(18-30)	(31-38)
(14) Mayhem (203, 6mo, 6mo-14)		
(15) Assault to Commit Felony not in Sec. 220 (221, 6mo, 6mo-15)		
(16) Battery on Police Officer/Fireman (243, 1yr, 1yr-10)		
(17) Assault w/Caustic Chemical (244, 1yr, 1yr-14)		

(18) Assault w/Deadly Weapon (245(a), 6mo, 6mo-14) Note: charged as Lesser Included Offense of 217 (245(a).6mo. 6mo-14)		
(19) Attempt of above (664/___, 6mo, 6mo-1/2 max)	(18-24)	(25-30)
Note: References to Penal Code sections in 2329 are to Penal Code sections as they existed prior to July 1, 1977 under the ISL.		
Least Serious	(18-24)	(25-32)
(20) False Imprisonment (236, 1yr, 1yr-10)		
(21) Assault Against Police Officer/Fireman (240, 6mo, 6mo-2)		
(22) Battery w/Serious Injury (243, 6mo, 6mo-5)		
(23) Discharge Firearm at Inhab Dwelling (246, 1yr, 1yr-5)		
(24) Battery on Non-Prisoner by Prisoner (4501.5, 1yr, 1yr-3)		
(25) Fail to Render Aid after Accident (20001 VC, 1yr, 1yr-5)		
(26) Drunk Drive Causing Bodily Injury (23101 VC, 1yr, 1yr-5)		
(27) Drive Under Infl. Drugs Causing Bodily Injury (23106 VC, 1yr, 1yr-5)		
(28) Attempt of above (664/___, 6mo, 6mo-1/2 max)	(16-22)	(23-28)

	Parole (mos)	
	Base Period	
(e) Sexual Offenses:	Typical	Aggravated
More Serious		
(1) Rape w/Great Bodily Injury 264, 5yr, 15 life)	(60-73)	(74-82)
(2) Aid Rape w/Force (264.1, 20mo, 5 life) (f.286.1, 20mo, 5 life)	(20-38)	(39-44)
(3) Aid Sodomy w/ Force (286(d), 20mo, 5 life) (f.286.1, 20mo, 5 life)		
(4) Aid Oral Copulation w/Force (288a(d), 20mo, 5 life) (f. 288b, 20mo, 5 life)		
(5) (5) Attempt of above (664/___, 6mo, 6mo-20)	(28-36)	(37-42)
Serious	(20-48)	(49-60)
(6) Rape w/Force or Threat (261(2)(3), 1yr, 3 life)		
(7) Sodomy under 14 & over 10 yrs older or by Force (286(e), 1yr, 3 life) (f.286, 1yr, 1 life)		
(8) L&L, Child Under 14 (288, 1yr, 1 life)		

	Parole (mos)	
	Base Period	
(e) Sexual Offenses:	Typical	Aggravated

(9) Oral Copulation under 14 & over 10 yrs older, or by force, violence, etc., (288a(c), 1yr, 3-life) (f.288a, 1yr, 3-15)		
(10) Attempt of above (664/___, 6mo, 6mo-20)	(24-32)	(33-38)
Less Serious	(12-24)	(25-30)
(11) Sodomy in Jail or Prison 286(e), 6mo, 6mo-5)		
(12) Oral Cop in Jail or Prison 288a(e), 6mo, 6mo-5)		
(13) Seduce for Prostitution 266, 6mo, 6mo-5)		
(14) Abduct for Prostitution (267, 6mo, 6mo-5)		
(15) Place Wife in House of Prostitution (266g, 1yr, 3-10)		
(16) Pimping (266h, 1yr, 1-10)		
(17) Pandering (266i, 1yr, 1-10)		
(18) Incest (285, 1yr, 1-50)		
(19) Sodomy under 18 (286(b), 6mo, 6mo-5) (f.286, 1yr, 1yr-life)		
(20) Oral Cop under 18, (288a(b), 6mo, 6mo-5) (f.288a, 6mo, 6mo-15)		
(21) Indecent Exposure w/Like or 288 Prior (314(l), 1yr, 1yr-5)		
(22) Unlawful Sex Intercourse (261.5, 6mo, 6mo-50) (f.261.1, 6mo, 6mo-50)		
(23) Annoy Child w/Like or 288 Prior (647a, 1yr, 1yr-5)		
(24) Attempt of above (664/___, 6mo, 6mo-1/2 max or 20 if life max)	(12-18)	(19-24)

	Parole (mos)	
	Base Period	
(d) Property Crimes with Threat to Person:	Typical	Aggravated
More Serious		
(1) Robbery w/Great Bodily Injury (211, 5yr, 15-life).	(60-73)	(74-82)
(2) Robbery 1st (211, 20mo, 5-life)	(22-36)	(37-42)
(3) Att. Robb 1st (664/211, 6mo, 6mo-20)	(22-36)	(37-42)
Serious	(14-30)	(31-42)
(4) Arson - Burn Public Bldg. etc. (448a, 8mo, 2-20)		
(5) Arson - Burn as Described by Statute (449b, 1yr, 1yr-10)		
(6) Arson - Burn Dwelling, House, Etc. (447a, 8mo, 2-20)		
(7) Robbery 2nd (211, 1yr, 1-life)		
(8) Att Robb 2nd (664/211, 6mo, 6mo-20)	(12-18)	(19-30)
Less Serious	(9-18) (or MEPPD)	(19-30)

(9) Arson - Burn Personal Property (449a, 1yr, 1-3)		
(10) Arson - Burn Insured Property (450a, 1yr, 1yr-5)		
(11) Attempt to Commit Arson (451a, 6mo, 6mo-5)		

	Parole (mos)	
	Base Period	
(e) Weapons Offenses:	Typical	Aggravated
More Serious	(24-32)	(33-42)
(1) Bring Explosives or Firearms into Prisons or Jail (or possession of) (4574, 1yr, 1-life)		
(2) Possession of Weapon by Prisoner (4502, 1yr, 3-life)		
Serious	(12-24)	(25-36)
(3) Possession of Firearm by Ex-Felon (Narcotic Addict) (12021, 6mo, 6mo-15)		
(4) Possession of Firearm by Ex-Felon Who used Firearm in Prior Felony (12560, 6mo, 6mo-15)		
Less Serious	(9-18) (or MEPD)	(19-30)
(5) Possession-Manufacture of Fire Bomb 452, 6mo, 6mo-5)		
(6) Manufacture, Sale, Poss Blackjack, Sawed-Off Shotgun, etc. (12020, 1yr, 1-3) (Prior to 1/1/76, 1yr, 1-5)		
(7) Alter Marks on Firearm (12090, 1yr, 1-5)		
(8) Unlawful Poss of Firearm Silencer (12520, 6mo, 6mo-3)		
Additional Penalties		
(9) Commit Felony Armed w/Deadly Weapon (12022, +20mo, 5-10 CS)	(12-24)	
(10) Use of Firearm in Robbery, ADW, etc. (12022.5, +20mo, 5-life CS)	(12-24)	

	Parole (mos)	
	Base Period	
(f) Opiates. [FNa1]	Typical	Aggravated
(1) Induce Minor (by adult) (11353, (f.11502) 5 yr, 10-life)	(60-72)	(73-84)
(A) w/SPC (10 yr, 10-life)	(120-138)	(139-156)
(B) w/2 SPC (15 yr, 15-life)	(180-210)	(121-240)
(2) Induce Minor (by minor) (11354 (f.11502.1)	(30-38)	(39-44)

20 mo, 5 life)		
(A) — w SPC (40mo, 10 life)	(40-48)	(49-54)
(3) Sell, Transport, etc. (11352, (f.11501) 20mo, 5 life) (prior to 1/1/76 3yr, 5 life)	(28-42)	(43-48)
(A) — w/SPC (40mo, 10 life)	(40-48)	(49-54)
(B) — w/2 SPC (5yr, 15 life)	(60-72)	(73-96)
(4) Possession for Sale (11351, (f.11500.5) 20mo, 5 15 (prior to 1/1/76 30mo, 5 15	(28-38)	(39-42)
(A) — w/SPC (40mo, 10 life)	(40-46)	(47-52)
(B) — w/2 SPC (5yr, 15 life)	(60-72)	(73-96)
(5) Possession (11350, (f.11500) 8mo, 2 10 (prior to 1/1/76 2yr, 2 10)	(18-30)	(31-36)
(A) — w/SPC (20 mo, 5 20)	(20-36)	(37-44)
(prior to 1/1/76 5yr, 5 20)	(60-68)	(69-76)
(B) — w/2 SPC (5yr, 15 life)	(60-72)	(73-96)
(6) Sell in Lieu of (11355 (f. 11503) 6mo, 6 10)	(12-18)	(19-24)

	Parole (mos)	
	Base Period	
(g) Dangerous Drugs. [FNa1]	Typical	Aggravated
(1) Induce Viol. by Minor (11380, (f.11913) 5yr, 10 life)	(60-72)	(73-84)
(9/65-11/69, 6mo, 6mo-5)	(12-18)	(19-24)
(A) — w/SPC (10yr, 10 life)	(120-138)	(139-156)
(9/65-11/69, 8mo, 2 10)	(14-20)	(21-26)
(B) — w/2 SPC (15yr, 15 life)	(180-210)	(211-240)
(2) Sell, Mfg. Transport (11379, (f.11912) 3yr, 5 life)	(36-40)	(41-44)
(9/65-11/69, 6mo-5)	(12-18)	(19-24)
(A) — w/SPC (20mo, 5 life)	(38-42)	(43-46)
(9/65-11/69, 8mo, 2 10)	(14-20)	(21-26)
(B) — w/2 SPC (10yr, 10 life)	(120-138)	(139-156)
(3) Possession for Sale (11378 (f.11911) 2yr, 2 10)	(28-32)	(33-38)
(9/65-11/69, 6mo, 6mo-3)	(9-15)	(16-24)
(A) — w/SPC (3yr, 5 15)	(36-42)	(43-48)
(9/65-11/69, 8mo, 2 10)	(14-20)	(21-26)
(B) — w 2 SPC (6yr, 10 life)	(72-84)	(85-96)
(4) Possession (11377, (f. 11910) 1yr, 1 10)	(18-24)	(25-32)
(A) — w/ SPC (2yr, 2 20)	(30-36)	(37-42)
(7/17/65-11/3/68, 1yr, 1 5)	(12-20)	(21-28)

(5) Sell in Lieu of (11382, (f.11917) 6mo, 6mo-5)	(9-15)	(16-24)
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	Parole (mos)	
	Base Period	
(h) Marijuana. [FNa1]	Typical	Aggravated
(1) Sale to Minor (11361, (f.11532) 5yr, 10 life)	(60-72)	(73-84)
(A) w/SPC (10yr, 10 life)	(120-138)	(139-156)
(B) w/2 (SPC 15yr, 15 life)	(180-210)	(211-240)
(2) Sell, Transport, Furnish (11360, (f.11531) 3yr, 5 life)	(36-40)	(41-44)
(A) w/SPC (5yr, 5 life)	(60-72)	(73-84)
(B) w/2 SPC (40mp, 10 life)	(72-84)	(85-96)
(3) Possession for Sale (11359, (f. 11530.5) 2yr, 2-10)	(28-32)	(33-38)
(A) w/ SPC (3yr, 5-15)	(36-42)	(43-48)
(B) w/2 SPC (6yr, 10 life)	(72-84)	(85-96)
(4) Plant, Process Peyote (11363, (f. 11540) 6mo, 6mo-10)	(12-18)	(19-24)
(A) w/SPC 8mo, 2-10	(14-20)	(21-26)
(5) Plant, Process Mari. (11358, (f.11530.9) 1yr, 1-10)	(18-22)	(23-30)
(A) w/SPC (2yr, 2-20)	(30-36)	(37-42)
(B) w/ 2 SPC (5yr, 5 life)	(60-72)	(73-84)
(6) Possession (11357(a) 1yr, 1yr-10) (prior to 1968 incld. plant, cultivate, etc)	(18-22)	(23-32)
(eff. 1/1/76, 11357(a) poss. hash, 1yr, 1yr-5)	(12-18)	(19-24)
(A) w/SPC 2yr, (2-20)	(24-30)	(31-38)
(B) w/2 SPC (20mo, 5yr life)	(28-34)	(35-42)

	Parole (mos)	
	Base Period	
(i) Misc. Controlled Substance Viol.	Typical	Aggravated
(1) Forgery/Alter Prescription (11368, f.11715, 6mo, 6mo-6) (Subsequent 6mo, 6mo-10)		
(2) Unlawful Write-Fill Controlled Substance Prescription (11152, f.11162, 6mo, 6mo-6)		
(3) Unlawful Fill C.S. Prescription (11153, f.11162.5, 6mo, 6mo-6)		
(4) Prescribe C.S. Unlawfully (11154, f.11163, 6mo, 6mo-6)		
(5) Physician Prescribe C.S. While Priv. Suspended (11155, f.11163.5, 6mo, 6mo-6)		
(6) Prescribe Administer C.S. to Addict (11156, f.11164, 6mo, 6mo-6)		
(7) Obtain C.S. by fraud (11173, f.11170, 6mo, 6mo-6)		

(8) Give False Name or Address (11174, 6mo, 6mo-6)		
(9) Induce Minor to Viol Prescription Law (11371, f.11715.7, 6mo, 6mo-6)		
(10) Maintaining Place (11366, f.11557, mo, 6mo-10), w/SPC 8mo, 2-20)		
(11) Forge Prescription (4390 BP Code, 1yr, 1yr-14)		
(12) Bring Narc, Para, Alcohol into Jail or prison (4573 PC, 6mo, 6mo-5)		
(13) Bring Forbidden Drugs or Para. into Jail or Prison (4573.5 PC, 6mo, 6mo-5)		
(14) Poss. Narc, Drugs, Alcohol in Jail or Prison (4573.6 PC, 6mo, 6mo-5)		
(15) Attempt of above (664/__, 6mo, 6mo-1/2 max)	(6-12)	(13-18)

	Parole (mos)	
	Base Period	
(j) Crimes Against Property-	Typical	Aggravated
More Serious		
(1) Burglary w/Bodily Harm (459, 5yr, 15 life)	(60-72)	(73-96)
(2) Burglary w/Explosives (464, 40mo, 10-40)	(40-60)	(61-84)
(3) Burglary 1st (459, 20mos, 5 life)	(24-30)	(31-36)
(4) Attempt of above (664/__, 6mo, 6mo-1/2 max or 6mo-20 if max life)	(18-24)	(25-36)
Serious	(16-22)	(23-28)
(5) Embezzlement by Public Official (424, 1yr, 1yr-10)		
(6) Use of Credit Card to Defraud (484g, 6mo, 6mo-10)		
(7) Merchant Issuing Merchandise on Fraudulent Credit Card (484h, 6mo, 6mo-10)		
(8) Grand Theft (includes Auto and Person) (487, 6mo, 6mo-10)		
(9) Grand Theft Dog (487e, 6mo, 6mo-10)		
(10) Receiving Stolen Property (496, 6mo, 6mo-10)		
(11) Embezzlement (503, 1yr, 1yr-10)		
(12) Extortion (518, 1yr, 1yr-10)		
(13) Defraud Insurer (548, 1yr, 1yr-10)		
(14) Falsify Records w/Intent to Defraud (3020(b)(CC), 6mo, 6mo-10) [FNaa1]		
(15) Sale of Securities without Permit (25110 (CC), 6mo, 6mo-10)		
(16) Sale of Securities by Fraud. Scheme (25216(a)(CC), 6mo, 6mo-10)		
(17) Sale of Securities by Misrepresentation (25401 (CC), 6mo, 6mo-10)		

(18) Violation Corporation Laws (26104 (CC) 6mo, 6mo-10)		
(19) Burglary 2nd (459, 1yr, 1yr-15)		
(20) Forgery (including attempts) (470, 1yr, 1yr-14)		
(21) Forgery, Documents, Seals (472, 1yr, 1yr-14)		
(22) Fraud, Possession of Unfinished Check (475, 1yr, 1yr-14)		
(23) Fictitious Check (including attempts) (476, 6mo, 6mo-14)		
(24) False Evid. Register. w/intent to Defraud (4463 VC, 6mo, 6mo-14)		
(25) Non-Sufficient Funds Check (476a, 6mo, 6mo-14)		
(26) Counterfeit Dies and Plates (480, 1yr, 1yr-14)		
(27) Forgery of Credit Card (484f, 1yr, 1yr-14)		
(28) Manufacture Fraudulent Credit Card (484i, 1yr, 1yr-14)		
(29) Forgery of Fictitious Name (29221 (EC), 1yr, 1yr-14)		
(30) Attempt of above (664/__, 6mo, 6mo-1/2 max)	(9-15)	(16-22)
Less Serious	(9-15)	(16-22) (or MEPD)
(31) Fraudulent Claims (72, 6mo, 6mo-5)		
(32) Bookmaking (337a, 6mo, 6mo-2)		
(33) Forg. Telephone Message (474, 6mo, 6mo-5)		
(34) Fraudulent Possession of Completed Check (475a, 1yr, 1yr-5) (prior to 1/1/74, 1yr, 1yr-14) (1/1/74-1/1/75, 1yr, 1yr-10)		
(35) Theft of Credit Cards (484, 6mo, 6mo-5)		
(36) Injure Tele Comm Line (591, 6mo, 6mo-5)		
(37) Petit Theft w/Prior Theft (666(3), 6mo, 6mo-5)		
(38) [FNaaa1] Petit Theft w/PFC (667, 6mo, 6mo-5)		
(39) Theft of Vehicle (10851 (VC), 1yr, 1yr-5)		
(40) Attempt of above (664/__, 6mo, 6mo-1/2 max)	(9-12)	(13-15)

	Parole (mos)	
	Base Period	
(k) Family Offenses:	Typical	Aggravated
Serious	(18-22)	(23-38)
(1) Willful Cruelty to Child (life or Health Endangered) (273a, 1yr, 1yr-10)		
(2) Inflict Traumatic Injury on Wife (Child) (273d, 6mo, 6mo-10)		
(3) Attempt of above (664/__, 6mo, 6mo-1/2 max)	(12-18)	(19-24)
Less Serious	(9-15)	(16-20)

	(or MEPD)	
(4) Abortion (274, 8mo, 2-5)		
(5) Abortion, Submit (275, 1yr, 1yr-5)		
(6) Bigamy (281, 6mo, 6mo-10)		
(7) Child Desertion (271, 6mo, 6mo-1)		
(8) Failure to Provide (270, 6mo-1yr + 1 day)		

	Parole (mos)	
	Base Period	
(i) Escape Offenses.	Typical	Aggravated
More Serious	(12-18)	(19-22)
(1) Escape from Prison Camp w/Force (4530(a), 2yr (per 3044), 1 Life CS)		
(2) Aiding to Escape (4535, 1yr, 1 life)		
(3) Attempt of above (664/___, 6mo, 6mo-20)	(6-12)	(13-18)
Serious	(9-12)	(13-18)
(4) Escape from Reform. (Conv. Felon) (107, 6mo, 6mo-10)		
(5) Escape from County Facility With Force (Misd Conv) (4532(a), 6mo, 6mo-10)		
(6) Escape from County Facility w/Force (Fel. Conv) (4532(b), 6mo, 6mo-10)		
(7) Assist Escape (4534, 6mo, 6mo-10)		
(8) Assist Escape by Employee (4533, 6mo, 6mo-10)		
(9) Attempt of above (664/___, 6mo, 6mo-5)	(6-12)	(13-18)
Less Serious	(6-12)	(13-18)
(10) Escape from Deuel Voc. Inst. (2042, 6mo, 6mo-5)		
(11) Escape (or Attempt) from Civil Addict Program 3002 (WI) , 6mo-7)		
(12) Escape from Prison Camp w/out Force (4530(b), 6mo, 6mo-5) (prior to 9/20/63 f. 4531, 2yr, 1yr life CS)		
(13) Escape from County Facility w/out Force (Fel Conv) (4532(b), 6mo, 6mo-5)		
(14) Escape While TCR, Work Furlough (4530(c), 6mo, 6mo-5yr)		
(15) Attempt of above (664/___, 6mo, 6mo-1/2 max)	(6-12)	(13-15)

(16) Escape from County Facility w/out Force (Misd Conv) (4532(a) 6 mo-1 day)	(5-8)	(8-12+day)
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	Parole (mos)	
	Base Period	
(m) Miscellaneous Offenses.	Typical	Aggravated
(1) Habitual Criminal [FNaaaa1]		
(A) — 644(a) 9yrs, life	(108-120)	(121-144)
(B) — 644(b) 12yrs, life	(144-156)	(157-210)
More Serious	(12-18)	(19-24)
(2) Bribery by Public Official or Employee (68, 1yr, 1yr-14)		
(3) Bribery of a Judicial Officer or Juror (92, 1yr, 1-10)		
(4) Perjury (118, 1yr, 1-14)		
(5) Conspiracy to Defraud (182.4, 6mo, 6mo-10)		
(6) Practice w/out Certificate (2141.5 (BP Code) 6mo, 6mo-10)		
(7) Attempt of above (644/___, 6mo, 6mo 1/2 max)	(9-15)	(16-22)
Serious	(9-18)	(19-24)
(8) Injure Prison or Jail (606, 6mo, 6mo-5)		
(9) Felony, Where Penalty not Prescribed (18, 6mo, 6mo-5)		
(10) Accessory to a Felony (32, 6mo, 6mo-5)		
(11) Bribery of a Witness (138, 6mo, 6mo-5)		
(12) Solicitation (653(f), 6mo, 6mo-5)		
(13) Attempt to Extort Money or Property (524, 6mo, 6mo-5)		
Less Serious	(6-12)	(13-18)
(14) Compounding a Crime where imprisonment—Life or Death (153, 6mo, 6mo-5) where imprisonment—Less (153, 6mo, 6mo-3)		
(15) Criminal Conspiracy (All other conspiracies treated the same as the crime it self) (182, 6mo, 6mo-3)		
(16) Ex-Felon on Prison or Jail Grounds (4571, 6mo, 6mo-5)		

	Parole (mos)	
	Base Period	
(n) Prior Prison Terms.	Typical	Aggravated
(1) Less Serious	(0-12)	
(2) More Serious	(12-24)	

	Parole (mos)	
	Base Period	
(c) Current Prison Commitments.	Typical	Aggravated
(1) — Less Serious	(0-12)	
(2) — More Serious	(12-24)	

{FNa1}

SPC = Specified prior conviction. Any specified prior conviction which results in the use of a higher suggested range should not be used to adjust for criminal history under §2322

{FNaa1}

(CC) Corporations Code

{FNaaa1}

(Inmates convicted under this section will be treated as first termers.

{FNaaaa1}

Any prior conviction which resulted in the adjudication as an habitual criminal should not be considered as part of the criminal history under §2322.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2 and 3041, Penal Code.

ARTICLE 8. PREPRISON CREDIT is amended as follows:

Section 2342. Application of Preprison Custody Credit to ISL, Nonlife 1168 and Life Prisoner Parole Dates is deleted:

~~§ 2342. Application of Preprison Custody Credit to ISL, Nonlife 1168 and Life Prisoner Parole Dates.~~

(a) ~~Single Offense. All preprison custody credit attributable to the base offense shall be deducted from the base period of confinement computed under Sections 2282, 2320 or 2403.~~

(b) ~~Multiple Offenses. Preprison custody credit shall be deducted from the base period of confinement and the multiple crime adjustment. Preprison custody credit shall not be deducted from any other adjustment.~~

(1) ~~No Overlapping Preprison Credit. Preprison custody credit attributable only to the base offense shall be deducted from the base period of confinement computed under Sections 2282, 2320, or 2403. Preprison custody credit attributable only to multiple crimes shall be deducted from the multiple crime adjustment computed under Sections 2286(a), 2323(a), or 2407. Preprison custody credit in excess of the base period of confinement or the multiple crime adjustment shall be deducted from the parole period.~~

(2) ~~Preprison Credit Overlaps Base and Multiple Crimes. Preprison custody credit attributable both to the base offense and to multiple crimes shall be deducted from the base period of confinement computed under Sections 2282, 2320, or 2403. Any preprison custody credit in excess of the base period of confinement shall be deducted from the multiple crime adjustment computed under Sections 2286(a), 2323(a), 2407 for each multiple crime to which the preprison credit is attributable. Preprison custody credit in excess of the base period of confinement or the multiple crime adjustment shall be deducted from the parole period.~~

(3) ~~Preprison Credit Overlaps Among Multiple Crimes Only. Preprison custody credit attributable to multiple crimes shall be deducted from the adjustments computed under Sections 2286, 2323(a), 2407 beginning with the adjustment for the earliest crime and deducting any remaining preprison credit from the adjustments following the chronological order of the crimes.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1203.03, 2900.1, 2900.5, 4019, Penal Code. In re Sosa, 102 Cal.App.3d 1002 (1980).~~

Section 2343. Application of Preprison Credit to ISL Sentence is *amended*:

§ 2343. Application of Preprison Credit to ISL Sentence.

Preprison custody and outpatient credit shall be deducted from the minimum term, and ~~MEPD, and primary term fixed under any previous regulation.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 2900.5 and former Section 1203.03(g) (repealed eff. 1-1-77), Penal Code.

ARTICLE 10. MULTIJURISDICTION REGULATIONS is *amended* as follows:

Section 2369. Documentation Hearing is *amended*:

§2369. Documentation Hearing.

~~At this hearing, the panel shall review the prisoner's activities and conduct considering the criteria in §§ 2290 and 2410 and document activities and conduct pertinent to granting and withholding postconviction credit. This hearing shall be conducted by a one person panel and the panel member shall be a commissioner or deputy commissioner. The hearing shall be scheduled pursuant to § 2269.1. For multijurisdiction prisoners located outside California, the hearing may be conducted over the telephone or by videoconferencing.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 1389.7, 3041, 3041.5, 11190 and 11193, Penal Code.

Section 2371. Progress Hearing: Prisoner Rights is *deleted*.

~~§ 2371. Progress Hearing: Prisoner Rights.~~

~~(a) Multijurisdiction Prisoners Located in California. At the hearing specified in Section 2269, all multijurisdiction prisoners located in California shall have the rights specified in Sections 2245-2255.~~

~~(b) Multijurisdiction Prisoners Located Outside California. At the hearing specified in Section 2269, all multijurisdiction prisoners located outside California shall have the rights specified in Section 2367. The hearing shall be a telephone hearing.~~

~~(c) Record. The record of the hearing shall be a verbatim transcript.~~

ARTICLE 11. PAROLE CONSIDERATION CRITERIA AND GUIDELINES FOR MURDERS COMMITTED ON OR AFTER NOVEMBER 8, 1978, AND SPECIFIED ATTEMPTED MURDERS is *amended* as follows:

Section 2400. Scope of Article is *amended*.

§ 2400. Scope of Article.

The criteria and guidelines in this article apply to prisoners sentenced to prison for first and second degree murders committed on or after November 8, 1978 and attempted murders where the perpetrator is sentenced for life pursuant to the provisions of Penal Code section 664. The guidelines in this article are based on the public's expressed intent in amending Penal Code sections 190 and 664 that a person convicted of first or second degree murder or attempted murder, as specified, should be incarcerated for an extended period of time.

The prisoner's minimum eligible parole date is established by statute. The amount of good conduct credit that a prisoner sentenced for first or second degree murder may earn to reduce the minimum eligible parole date is established by statute. (Penal Code sections 2930 et seq.) Life prisoners convicted of attempted murder do not earn these credits. The department will determine the minimum eligible parole date. The length of time a prisoner must serve prior to actual release on parole is determined by the board. ~~The amount of postconviction credit a prisoner may earn to reduce the length of time prior to release on parole is determined by the board.~~ This article implements Penal Code section 3041 and concerns only the board's exercise of discretion in determining whether a prisoner is suitable for parole and, if so, when the prisoner should be released on parole.

~~The standards for the department's action in reducing the minimum eligible parole date and the standards for the board's decision whether to reduce the period of confinement are different. The department's decisions pursuant to Penal Code sections 2930 et seq. do not affect the Board's decision concerning postconviction credit pursuant to these rules.~~

A prisoner committed for first or second degree murder or attempted murder shall have his or her initial parole consideration hearing as provided in § 2268. The prisoner will have documentation hearings as provided in § 2269.1, ~~but no specific amount of postconviction credit will be granted until the board has established a period of confinement.~~

Although many of the sections in this article are the same as the sections in Article 5, they are repeated in this article to avoid confusion between the rules applicable to prisoners who committed murders on or before November 7, 1978 and these rules which apply to prisoners who committed murders on or after November 8, 1978, and those who committed specified attempted murders. The suitability criteria are the same for both groups. ~~The guidelines for establishing the periods of confinement are different because of the change in the minimum term for first degree murder and the change from a determinate to an indeterminate term for second degree murder and attempted murder.~~ The provisions for adjusting the terms for other offenses are also different because of the change in Penal Code section 669 which permits courts to impose sentences consecutive to life terms (Stats. 1978, Ch. 579, eff. 1/1/79).

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 182, 190, 664, 2930 et seq., 3040, 3041, 3046 and 5076.1, Penal Code.

Section 2401. General is amended.

§ 2401. General.

A life prisoner shall be considered for parole for the first time at the initial parole consideration hearing scheduled as provided in Section 2268. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2402(c). ~~A parole date shall be set if the prisoner is found suitable for parole under Section 2402(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.~~

~~In setting the parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining the suitability for parole and~~

~~the setting of parole dates, considering the number of victims of the crime for which the prisoner was sentenced and any other circumstances in mitigation or aggravation.~~

~~The terms in this article are guidelines only. The suggested terms serve as the starting point for the board's consideration of each case on an individual basis. The board may establish a term above or below the guidelines when warranted and reasons are stated on the record. A prisoner shall not be released before the minimum eligible parole date.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code.

Section 2403. Base Term is *deleted*:

~~§ 2403. Base Term.~~

~~(a) General. The panel shall set a base term for each life prisoner who is found suitable for parole. The base term shall be established solely on the gravity of the base crime, taking into account all of the circumstances of that crime. If the prisoner has been received in prison for more than one murder committed on or after November 8, 1978, the base crime is the most serious of the murders considering the facts and circumstances of the crime. If the prisoner has been sentenced to prison for murders committed before November 8, 1978 and for murders committed on or after November 8, 1978, the base offense shall be the most serious of the murders committed on or after November 8, 1978.~~

~~The base term shall be established by utilizing the appropriate matrix of base terms provided in this section. The panel shall determine the category most closely related to the circumstances of the crime. The panel shall impose the middle base term reflected in the matrix unless the panel finds circumstances in aggravation or mitigation.~~

~~If the panel finds circumstances in aggravation or in mitigation as provided in §§ 2404 or 2405, the panel may impose the upper or lower base term provided in the matrix by stating the specific reason for imposing such a term. A base term other than the upper, middle or lower base term provided in the matrix may be imposed by the panel if justified by the particular facts of the individual case and if the facts supporting the term imposed are stated.~~

(b) Matrix of Base Terms for First Degree Murder committed on or after November 8, 1978.

<i>First Degree Murder</i> Penal Code § 189 (in years and does not include post conviction credit as provided in § 2410)	<i>A. Indirect</i> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack, a crime partner actually did the killing.	<i>B. Direct or Victim Contribution</i> Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.	<i>C. Severe Trauma</i> Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.	<i>D. Torture</i> Victim was subjected to the prolonged infliction of physical pain through the use of nondeadly force prior to act resulting in death.
<i>I. Participating Victim</i> Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred; e.g., crime partner, drug dealer, etc.	25-26-27	26-27-28	27-28-29	28-29-30
<i>II. Prior Relationship</i> Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, see Category IV.	26-27-28	27-28-29	28-29-30	29-30-31
<i>III. No Prior Relationship</i> Victim had little or no personal relationship with prisoner, or motivation for act resulting in death was related to the accomplishment of another crime; e.g., death of victim during robbery, rape, or other felony.	27-28-29	28-29-30	29-30-31	30-31-32
<i>V. Threat to Public Order or Murder for Hire</i> The act resulting in the victim's death constituted a threat to the public order including the murder of a police officer, correctional officer, public official, fellow patient or prisoner, any killing within an institution, or any killing where the prisoner hired and/or paid another person to commit the offense.	28-29-30	29-30-31	30-31-32	31-32-33

(e) Matrix of Base Terms for Second Degree Murder committed on or after November 8, 1978.

<i>Second Degree Murder</i>	<i>A. Indirect</i>	<i>B. Direct or Victim Contribution</i>	<i>C. Severe Trauma</i>
Penal Code § 189 (in years and does not include post conviction credit as provided in § 2410).	Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack, a crime partner actually did the killing.	Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victims acting in defense of self or property.	Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.
<i>I. Participating Victim</i> Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred; e.g., crime partner, drug dealer, etc.	15-16-17	16-17-18	17-18-19
<i>II. Prior Relationship</i> Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. This category shall not be utilized if victim had a personal relationship but prisoner hired and/or paid a person to commit the offense.	16-17-18	17-18-19	18-19-20
<i>III. No Prior Relationship</i> Victim had little or no personal relationship with prisoner or motivation for act resulting in death was related to the accomplishment of another crime; e.g., death of victim during robbery, rape, or other felony.	17-18-19	18-19-20	19-20-21

(d) Matrix of Base Terms for Attempted Willful, Deliberate and Pre-meditated Murder committed on or after January 1, 1987.

<i>Attempted Murder</i> Penal Code § 664(a) (in years and does not include post conviction credit as provided in § 2410)	<i>A. Minor Injury</i> Victim unharmed or received minor injury.	<i>B. Victim Assaulted</i> Victim assaulted or otherwise seriously injured.	<i>C. Major Injury</i> Victim's major injuries required extensive treatment or the victim was seriously disabled.	<i>D. Torture</i> Victim was subjected to prolonged infliction of physical pain.
<i>I. Participating Victim</i> Victim was accomplice or otherwise implicated in a criminal act with the prisoner, e.g., crime partner, drug dealer, etc.	7-8-9	8-9-10	9-10-11	10-11-12
<i>II. Prior Relationship</i> Victim was involved in a personal relationship with prisoner, e.g., spouse, family member, friend, etc. which contributed to the motivation for the attempted murder. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, use category IV.	8-9-10	9-10-11	10-11-12	11-12-13
<i>III. No Prior Relationship</i> Victim had little or no personal relationship with prisoner or the motivation for the attempted murder was related to the accomplishment of another crime, e.g., robbery, rape, or other felony.	9-10-11	10-11-12	11-12-13	12-13-14
<i>IV. Threats to Public Order or Murder for Hire</i> The attempted murder constituted a threat to the public order, e.g., police officer, correctional officer, public official, fellow patient or prisoner or any attempted murder within an institution, any attempted murder where the prisoner hired and/or paid another person to commit the offense.	10-11-12	11-12-13	12-13-14	13-14-15

(c) Matrix of Base Terms for Attempted Murder of a Peace Officer or Firefighter committed on or after January 1, 1995.

<i>Attempted Murder</i> Penal Code § 664(e) (in years and does not include post conviction credit as provided in § 2410).	<i>A. Minor Injury</i> Victim unharmed or received minor injury.	<i>B. Victim Assaulted</i> Victim assaulted or otherwise seriously injured.	<i>C. Major Injury</i> Victim's major injuries required extensive treatment or the victim was seriously disabled.	<i>D. Torture</i> Victim was subjected to prolonged infliction of physical pain.
I. Peace officer or firefighter was placed at risk of serious injury or death due to the act(s) of the prisoner.	7-8-9	8-9-10	9-10-11	10-11-12
II. The act was committed while the prisoner was fleeing or was attempting to flee from law enforcement officers or the manner in which the act was committed created a risk of injury to others e.g., high speed chase, shooting from a moving vehicle, fire set in the inhabited building.	8-9-10	9-10-11	10-11-12	11-12-13
III. The act was committed in an attempt to preclude discovery of a crime committed by the prisoner and/or his/her crime partners.	9-10-11	10-11-12	11-12-13	12-13-14
IV. The prisoner committed an act causing a peace officer or firefighter to respond and then ambushed the peace officer or firefighter.	10-11-12	11-12-13	12-13-14	13-14-15

(f) Matrix of Base Terms for Attempted Willful, Deliberate and Premeditated Murder of a Peace Officer or Firefighter committed on or after January 1, 1998:

<i>Attempted Murder</i> Penal Code § 664(f) (in years and does not include post-conviction credit as provided in § 2410):	<i>A. Minor Injury</i> Victim unharmed or received minor injury.	<i>B. Victim Assaulted</i> Victim assaulted or otherwise seriously injured.	<i>C. Major Injury</i> Victim's major injuries required extensive treatment or the victim was seriously disabled.	<i>D. Torture</i> Victim was subjected to prolonged infliction of physical pain.
I. Peace officer or firefighter was placed at risk of serious injury or death due to the act(s) of the prisoner.	15-16-17	16-17-18	17-18-19	18-19-20
II. The act was committed while the prisoner was fleeing or was attempting to flee from law enforcement officers or the manner in which the act was committed created a risk of injury to others, e.g., high speed chase, shooting from a moving vehicle, fire set in the inhabited building.	16-17-18	17-18-19	18-19-20	19-20-21
III. The act was committed in an attempt to preclude discovery of a crime committed by the prisoner and/or his/her crime partners.	17-18-19	18-19-20	19-20-21	20-21-22
IV. The prisoner committed an act causing a peace officer or firefighter to respond and then ambushed the peace officer or firefighter.	18-19-20	19-20-21	20-21-22	21-22-23

~~(g) Base Terms of Other Life Crimes.~~

~~In considering life crimes for which no matrix is provided, the panel shall impose a base term by comparison to offenses of similar gravity and magnitude in respect to the threat to the public, and shall consider any relevant Judicial Council rules and sentencing information as well as any circumstances in aggravation or mitigation of the crime.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 182, 3040, and 3041, Penal Code; In re Sims, Sacramento Superior Court Case No. 01F07562 (2002).~~

Section 2404. Circumstances in Aggravation of the Base Term is *deleted*:

~~§ 2404. Circumstances in Aggravation of the Base Term.~~

~~(a) General. The panel may impose the upper base term or another term longer than the middle base term upon a finding of aggravating circumstances. Circumstances in aggravation of the base term include:~~

- ~~(1) The crime involved some factors described in the appropriate matrix in a category higher on either axis than the categories chosen as most closely related to the crime;~~
- ~~(2) The victim was particularly vulnerable;~~
- ~~(3) The prisoner had a special relationship of confidence and trust with the victim, such as that of employee-employer;~~
- ~~(4) The murder was committed to preclude testimony of potential or actual witnesses during a trial or criminal investigation;~~
- ~~(5) The victim was intentionally killed because of his race, color, religion, nationality or country or origin;~~
- ~~(6) During the commission of the crime the prisoner had a clear opportunity to cease but instead continued;~~
- ~~(7) The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime;~~
- ~~(8) The murder was wanton and apparently senseless in that it was committed after another crime occurred and served no purpose in completing that crime;~~
- ~~(9) The corpse was abused, mutilated or defiled;~~
- ~~(10) The prisoner went to great lengths to hide the body or to avoid detection;~~
- ~~(11) The murder was committed to prevent discovery of another crime;~~
- ~~(12) The murder was committed by a destructive device or explosives;~~
- ~~(13) There were multiple victims for which the term is not being enhanced under Section 2407;~~
- ~~(14) The prisoner intentionally killed the victim by the administration of poison;~~
- ~~(15) The prisoner intentionally killed the victim by lying in wait;~~
- ~~(16) The prisoner occupied a position of leadership or dominance over other participants in the commission of the crime, or the prisoner induced others to participate in the commission of the crime;~~
- ~~(17) The prisoner has a history of criminal behavior for which the term is not being enhanced under Section 2407;~~
- ~~(18) The prisoner has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the prisoner is currently committed to prison;~~
- ~~(19) The prisoner was on probation or parole or was in custody or had escaped from custody at the time the crime was committed;~~
- ~~(20) Any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041 Penal Code.~~

Section 2405. Circumstances in Mitigation of the Base Term is *deleted*:

~~§ 2405. Circumstances in Mitigation of the Base Term.~~

~~(a) General. The panel shall impose the lower base term or another term shorter than the middle base term upon a finding of mitigating circumstances. Circumstances in mitigation of the base term include:~~

- ~~(1) The crime involved some factors described in the appropriate matrix in a category lower on either axis than the categories chosen as most closely related to the crime;~~
- ~~(2) The prisoner participated in the crime under partially excusable circumstances which do not amount to a legal defense;~~
- ~~(3) The prisoner had no apparent predisposition to commit the crime but was induced by others to participate in its commission;~~
- ~~(4) The prisoner tried to help the victim or sought aid after the commission of the crime or tried to dissuade a crime partner from committing other offenses;~~
- ~~(5) The prisoner was a passive participant or played a minor role in the commission of the crime;~~
- ~~(6) The crime was committed during or due to an unusual situation unlikely to reoccur;~~
- ~~(7) The crime was committed during a brief period of extreme mental or emotional trauma;~~
- ~~(8) The prisoner has a minimal or no history of criminal behavior;~~
- ~~(9) Battered Woman Syndrome. At the time of the commission of the crime, the prisoner suffered from Battered Woman Syndrome, as defined in section 2000(b), and it appears the criminal behavior was the result of that victimization.~~
- ~~(10) Any specific factors in mitigation, including those listed in the Sentencing Rules for Superior Courts.~~

Note: Authority cited: Sections 3041 and 5076.2, Penal Code. Reference: Sections 3040, 3041 and 4801, Penal Code.

Section 2406. Adjustment for Weapons, Great Loss and Prior Prison Terms is *deleted*:

~~§ 2406. Adjustment for Weapons, Great Loss and Prior Prison Terms.~~

~~(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose enhancements under Penal Code Sections 12022, 12022.5, 12022.6 and 667.5 consecutive to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion whether to impose or strike the punishment upon a finding that the prisoner used a deadly or dangerous weapon, was armed with a firearm, used a firearm, caused great loss or served prior prison terms, the board shall consider the court's action in determining the adjustment under this section.~~

~~(b) Punishment Imposed by the Court. If the court imposed the consecutive punishment for the enhancement, the board shall not add an additional adjustment for using a deadly or dangerous weapon, being armed with a firearm, using a firearm, causing great loss in committing the murder, or having served a prior prison term.~~

~~(c) Punishment Stricken by Court. If the court struck the punishment upon a finding of circumstances in mitigation, the board shall consider any circumstances in mitigation. The board may add an adjustment for using a deadly or dangerous weapon, being armed with a firearm, using a firearm, causing great loss or having served a prior prison term. The suggested adjustment is one half the punishment that was stricken by the court.~~

~~(d) No Allegation or Finding. If the board finds that the prisoner used a deadly or dangerous weapon, was armed with a firearm, used a firearm, caused great loss or served a prior prison term although that fact was not~~

found to be true at the time of the prisoner's conviction, the board may add an adjustment based on that finding. The adjustment should be less than the adjustment suggested in subdivision (c) of this section. In adding adjustments for prior prison terms under this subsection, the panel should consider the length of time between the prisoner's release from custody and commission of a new offense.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 3040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.

Section 2407. Adjustments for Other Offenses is *deleted*:

~~§ 2407. Adjustments for Other Offenses.~~

~~(a) General. Effective January 1, 1979 Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.~~

~~(b) Multiple Convictions.~~

~~(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.~~

~~(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term as provided in Section 2403(a). The board shall add adjustments for the remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for concurrent sentences.~~

~~(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:~~

~~(A) Time served on the nonbase life crime prior to reception on the base offense; or~~

~~(B) The following adjustment:~~

~~1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.~~

~~2. Second degree murder: 8 years for a second degree murder committed on or after November 8, 1978.~~

~~3. One half the period of parole ineligibility for other life crimes.~~

~~(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the Board shall not add additional adjustment for the nonlife crime.~~

~~(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:~~

~~(A) Time served for the nonlife crime prior to reception on the life offense; or~~

~~(B) One half the determinate term imposed by the court; or~~

~~(C) One half the term that would be established under Section 2271(c) for crimes which carry a sentence of one year and one day.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code.

Section 2408. Circumstances in Aggravation of the Adjustment for Other Crimes is *deleted*:

~~§ 2408. Circumstances in Aggravation of the Adjustment for Other Crimes.~~

~~Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2407 include:~~

- ~~(a) Pattern of Violence. A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.~~
- ~~(b) Numerous Crimes. The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions, but not resulting in adjustments under Section 2407.~~
- ~~(c) Crimes of Increasing Seriousness. The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.~~
- ~~(d) Independent Criminal Activity. The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place, indicating a significant pattern of criminal behavior rather than a single period of aberrant behavior.~~
- ~~(e) Status. The prisoner was on probation or parole or was in custody or had escaped from custody when the crime was committed.~~
- ~~(f) Vulnerability. The victim was particularly vulnerable.~~
- ~~(g) Other. The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code: Sentencing Rules for the Superior Courts.~~

Section 2409. Circumstances in Mitigation of the Adjustment for Other Crimes is *deleted*:

~~§ 2409. Circumstances in Mitigation of the Adjustment for Other Crimes.~~

~~Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2407, or which may justify no adjustment, include:~~

- ~~(a) Successful Completion of Probation or Parole. The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.~~
- ~~(b) Insignificant Prior Record. The other crime indicates an insignificant pattern of prior criminal behavior. For example, the other crime is unrelated to the principal offense in time, in the kind of criminal conduct involved, or in the apparent motivation or cause of the criminal conduct.~~
- ~~(c) Probation. The prisoner was granted probation after conviction of the other crime.~~
- ~~(d) Other. The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code; Sentencing Rules for the Superior Courts.

Section 2410. Postconviction Credit is *deleted*:

~~§ 2410. Postconviction Credit.~~

~~(a) General. Life prisoners may earn postconviction credit for each year spent in state prison from the date the life term starts. Prior to the initial parole consideration hearing life prisoners shall have documentation hearings as provided in Section 2269.1. At the documentation hearings, the board shall document the prisoner's performance, participation, behavior and other conduct as specified in subsection (c) of this section. Credit shall not be granted or denied at these hearings. The documentation shall be used by the panel which establishes a parole date to determine how much, if any, credit should be granted for the years served prior to the establishment of the parole date. Once a parole date is established, postconviction credit for time served since the last hearing shall be considered at the progress hearings scheduled as provided in Section 2269. The board shall consider each case individually in determining the amount of credit. This section provides guidelines for granting credit but a panel may grant more or less credit as appropriate.~~

~~(b) Amount of Credit. Postconviction credit shall be granted to life prisoners in a manner which allows similar amounts of time to prisoners in similar circumstances. The suggested amount of postconviction credit is zero to 4 months for each year served since the date the life term started excluding any time during which service of the life term is tolled.~~

~~The board may grant more or less than 4 months annual postconviction credit when the prisoner's performance, participation or behavior warrants such adjustment of credit. Less than 4 months credit may be granted if the prisoner fails to meet the general expectations set forth in Section 2410(c). More than 4 months credit may be granted if the prisoner demonstrates exceptional performance in a work assignment, exceptional participation in self-help or rehabilitative programs, or other exemplary conduct. If the panel grants more than 4 months of postconviction credit for any year, the case shall be reviewed as provided in Sections 2041-2043. Provided, however, postconviction credits which would advance the parole release date to less than 180 days from the date of the hearing shall not be granted unless or until the parole review authority of the Governor is exercised pursuant to Penal Code section 3041.1.~~

~~(c) Criteria. In determining the amount of postconviction credit to be granted, the panel shall consider the following:~~

~~(1) Performance in Institutional Work Assignments. All life prisoners are presumed to work and to perform satisfactorily in work assignments (see CDC Rules 3040 and 3041). Lack of a work assignment shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of work assignments at the institution, the prisoner's custody status, and any other impediments to the prisoner's receiving work assignment.~~

~~(2) Participation in Self-Help and Rehabilitative Programs. All life prisoners are presumed to participate in programs for self-development (refer to CDC Rules 3040 and 3041). Lack of program participation shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of programs at the institution, the prisoner's custody status, and any other impediments to the prisoner's participation in programs.~~

~~(3) Behavior in the Institutional Setting. All life prisoners are presumed to behave in a disciplinary-free manner, in accordance with state law and departmental regulations (refer to CDC Rules 3000-3021). However, a minor disciplinary offense shall not necessarily prevent the granting of postconviction credit.~~

(d) ~~Credit Not Granted.~~ No annual postconviction credit shall be granted in the case of any prisoner who commits serious (as defined in 15 CCR Section 3315) or numerous (more than three) infractions of departmental regulations, violates any state law, or engages in other conduct which could result in rescission of a parole date (see Section 2451) unless the panel finds evidence in mitigation and supports such finding with a statement of its reasoning.

~~Consistent unsatisfactory performance in work assignments, consistent failure to engage in program participation, or consistent overall negative behavior demonstrated by numerous minor disciplinary reports may, individually or cumulatively, justify the withholding of annual postconviction credit which otherwise could have been granted.~~

(e) ~~Change in Parole Date.~~ Once postconviction credit is granted for particular year of imprisonment, the credit shall be applied to any new term established after rescission or reconviction after a reversal.

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code. In re Stanley, 54 Cal.App.3d 1030 (1976).~~

Section 2411. Fixing a Parole Date is *deleted*:

§ 2411. Fixing a Parole Date.

(a) ~~Total Period of Confinement.~~ The terms established for the base crime and any adjustments shall be added together resulting in a total period of confinement. The total period of confinement shall be reduced by any postconviction credit granted under Section 2410. This results in the adjusted period of confinement.

(b) ~~Period of Prison Confinement.~~ Any preprison credit shall be deducted from the total period of confinement as provided in Sections 2341-2345. This results in the total period of prison confinement. The total period of prison confinement shall be reduced by any postconviction credit granted under Section 2410. This results in the adjusted period of prison confinement.

(c) ~~Release Date.~~ The adjusted period of prison confinement and any time at large shall be added to the date the life term starts. This results in the parole date. For purposes of determining the parole date, the life terms starts on:

(1) ~~Consecutive Life Sentences.~~ The date the prisoner was received under Penal Code Section 2900 or 1203.2a for the earliest life sentence if the prisoner is sentenced to prison with consecutive life sentences.

(2) ~~Concurrent Life Sentences.~~ The date the prisoner was received under Penal Code Section 2900 or 1203.2a for the earliest life sentence used in calculating the parole date if the prisoner is sentenced to prison with concurrent life sentences.

(3) ~~Consecutive Nonlife Sentences for Crimes or Enhancements.~~ The date the prisoner completed serving the nonlife sentence or the sentence for the consecutive enhancement under Penal Code Section 669 if the prisoner is sentenced to prison with nonlife sentences which are consecutive to life sentence or with court imposed consecutive enhancements.

(4) ~~Concurrent Nonlife Sentences.~~ The date the prisoner was received for the life crime under Penal Code Section 2900 or 1203.2a, if the prisoner is sentenced to prison with nonlife sentences which are concurrent to the life sentences. If the panel added any adjustments for the nonlife crimes and the prisoner was received for those crimes prior to the date he was received for the life crime, the time served for those nonlife crimes prior to the date the life term starts shall be deducted from the adjustment for the nonlife crime.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1203.2a and 2900, Penal Code.

ARTICLE 12. PAROLE CONSIDERATION CRITERIA AND GUIDELINES FOR HABITUAL OFFENDERS SENTENCED TO LIFE TERMS UNDER PENAL CODE SECTION 667.7 is amended as follows:

Section 2420. Scope of article is amended:

§ 2420. Scope of Article.

The criteria and guidelines in this article shall apply to prisoners sentenced to a term of 20 years to life as habitual offenders under Penal Code Section 667.7 for crimes committed on or after January 1, 1982. The guidelines in this article shall be construed to be based on the public's expressed intent in adding Section 667.7 to the Penal Code that a person convicted of a felony in which the person inflicts great bodily injury or who personally uses force likely to produce great bodily injury, and who has served two or more prior prison terms for specified crimes should be incarcerated for an extended period of time.

~~The general statement in Section 2400 regarding the differences between the minimum eligible parole date and the parole release date shall be complied with as if incorporated herein.~~

A prisoner committed as a habitual offender shall have his initial parole consideration hearing in the thirteenth month prior to the minimum eligible parole date. The prisoner shall have documentation hearings as provided in Section 2269.1, ~~but no specific amount of postconviction credit shall be granted until the board has established a period of confinement.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 2930-2933, 3040 and 3041, Penal Code.

Section 2421. General is amended:

§ 2421. General.

A habitual offender shall be considered for parole for the first time at the initial parole consideration hearing. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2422(c). ~~A parole date shall be set if the prisoner is found suitable for parole under Section 2422(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.~~

~~In setting the parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining suitability for parole and the setting of parole dates, the circumstances of the crimes for which the prisoner was sentenced, and any circumstances in aggravation or mitigation.~~

~~In setting the base period of confinement, the panel shall consider the circumstances of the current and prior offenses resulting in the conviction as a habitual offender, including the number of prior prison terms for specified crimes and the extent of injury to the victim of the current offense. The panel may then make adjustments to the base period of confinement for other factors.~~

~~The circumstances tending to show suitability and unsuitability, and the circumstances in aggravation and mitigation contained in this article shall be construed as guidelines only. The panel may make findings outside the guidelines when warranted in the individual case and reasons are stated on the record.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code.

Section 2423. Base Term is *deleted*:

~~§ 2423. Base Term.~~

~~General. The panel shall set a base term for each habitual offender who is found suitable for parole. The base term shall be established based on the circumstances of the series of prior and current offenses which resulted in conviction as a habitual offender, considered as a whole.~~

~~The base term shall be established by utilizing the appropriate matrix of base terms provided in this section. The panel shall determine the category most closely related to the circumstances of the most serious of the series of prior and current offenses which resulted in commitment as an habitual offender. The panel shall impose the middle base term reflected in the matrix unless the panel finds circumstances in aggravation or mitigation.~~

~~If the panel finds circumstances in aggravation or in mitigation as provided in Sections 2424 or 2425, the panel may impose the upper or lower base term provided in the matrix by stating the specific reason for imposing such a term. A base term other than the upper, middle, or lower base term provided in the matrix may be imposed by the panel if justified by the particular facts of the individual case and if the facts supporting the term imposed are stated.~~

(b) Matrix of base terms for prisoners sentenced to terms of 20 years to life as habitual offenders under Penal Code Section 667.7 for crimes committed on or after January 1, 1982.

HABITUAL OFFENDERS Penal Code § 667.7 (in years and does not include post conviction credit as provided in § 2410)	D. Crime included a single victim who did not require extensive medical treatment or prisoner was a passive participant or played a minor role in the crime.	E. Crime involved multiple victims or there were multiple injuries inflicted on the same or different victims.	F. Victim was tortured or suffered loss of bodily member or organ, or duration of offense was lengthy and prisoner had an opportunity to cease but instead continued.	G. Crime involved intricate planning or there exists facts which indicate the crime was committed in a manner which demonstrates an exceptionally callous disregard for human suffering.
I. Contributing Victim While not an accomplice, victim was involved in criminal activity which contributed to the motivation for the crime, i.e., drug dealer, sex offender, etc.	20-22-24	21-23-25	22-24-26	23-25-27
II. Prior Relationship Victim was involved in a prior relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the crime.	21-23-25	22-24-26	23-25-27	24-26-28
III. Vulnerable Victim Victim was particularly vulnerable due to age or physical or mental condition.	22-24-26	23-25-27	24-26-28	25-27-29
IV. Injury to victim Victim suffered fatal injury, required extensive medical treatment, or was permanently disabled as a result of the crime.	23-25-27	24-26-28	25-27-29	26-28-30

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 667.7 and 3041, Penal Code.

Section 2424. Circumstances in Aggravation of the Base Term is *deleted*:

~~§ 2424. Circumstances in Aggravation of the Base Term.~~

~~Circumstances in aggravation of the base term include but are not limited to:~~

~~(a) Criminal History.~~

- ~~(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(e).~~
- ~~(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time after release on parole.~~
- ~~(3) The prisoner has been convicted of other offenses during the periods between the commission of the current offense and the offenses underlying the prior prison terms.~~
- ~~(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.7.~~

~~(b) Circumstances of Offenses.~~

- ~~(1) The current offense or offenses resulted in greater injury to one or more victims than is required for a finding under Penal Code Section 12022.7.~~
- ~~(2) The current offense or offenses or the offenses underlying the prior prison terms resulted in death to one or more victims.~~
- ~~(3) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable, or who occupy a position of trust in relation to the prisoner.~~
- ~~(4) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate a pattern of the commission of similar violent crimes; i.e., conviction for three or more sexual offenses, or three or more offenses involving use of a firearm.~~

~~(c) The Circumstances in Aggravation enumerated in Sections 2283, except subdivision (a)(1), and 2404, as appropriate to the case of a habitual offender.~~

~~(d) Any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code.~~

Section 2425. Circumstances in Mitigation of Base Term is *deleted*:

~~§ 2425. Circumstances in Mitigation of Base Term.~~

~~Circumstances in mitigation include but are not limited to:~~

~~(a) Criminal History.~~

- ~~(1) The current offense or offenses and the offenses underlying the prior prison terms are non-violent offenses not listed in Penal Code Section 667.5(c).~~
- ~~(2) There is a relatively long period of crime-free conduct, including successful completion of parole, between commission of the offenses resulting in commitment as a habitual offender.~~

(3) The prisoner has no other convictions for violent crimes as defined in Penal Code Section 667.5(c) other than those resulting in commitment as a habitual offender.

~~(b) Circumstances of Offenses.~~

~~(1) The great bodily injury to the victim in the current offense was no greater than that required for a finding under Penal Code Section 12022.7, and the prisoner did not personally inflict injury on any other victim of any offense of which he has previously been convicted.~~

~~(2) The current offense or offenses did not involve use of a firearm, and the offenses underlying the prior prison terms did not involve use of a firearm, or arming or use of a deadly or dangerous weapon.~~

~~(c) The Circumstances in Mitigation enumerated in Sections 2284, except subdivision (a)(1), and 2405, as appropriate to the case of a habitual offender.~~

~~(d) Any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.~~

Note: Authority cited: 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code.

Section 2426. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms is deleted:

~~§ 2426. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms.~~

~~(a) The panel shall consider the addition of adjustments for weapons, great loss, and prior prison terms as provided in Section 2406.~~

~~(b) The panel shall consider the addition of an adjustment for great bodily injury using the guidelines as provided in Section 2406 for the addition of adjustments for weapons, great loss, and prior prison terms.~~

~~(c) The panel shall not add adjustments for prior prison terms or findings of great bodily injury which resulted in the commitment as a habitual offender.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.5, 667.7, 3040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.

Section 2427. Adjustment for Other Offenses is deleted:

~~§ 2427. Adjustments for Other Offenses.~~

~~(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.~~

~~(b) Multiple Convictions.~~

~~(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.~~

~~(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term. The board shall add adjustments for the~~

remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for concurrent sentences.

(3) ~~Concurrent Life Sentences Imposed by the Court.~~ If the court imposed concurrent life sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for a second degree murder committed on or after November 8, 1978.

3. One half the period of parole ineligibility for other life crimes.

(4) ~~Consecutive Nonlife Sentences Imposed by the Court.~~ If the court imposed consecutive nonlife sentences the board shall not add additional adjustments for the nonlife crimes.

(5) ~~Concurrent Nonlife Sentences Imposed by the Court.~~ If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for the nonlife crime prior to reception on the life offense; or

(B) One half the determinate term imposed by the court; or

(C) One half the term that would be established under Section 2271 for crimes which carry a sentence of a year and a day.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1170, 3040 and 3041, Penal Code.

Section 2428. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes is deleted:

~~§ 2428. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes.~~

(a) ~~Circumstances in Aggravation.~~ Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2427 include:

(1) ~~Pattern of Violence.~~ A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.

(2) ~~Numerous Crimes.~~ The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions but not resulting in adjustments under Section 2427.

(3) ~~The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.~~

(4) ~~Independent Criminal Activity.~~ The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place.

(5) ~~Status.~~ The prisoner was on probation or parole or had escaped from custody when the other crime was committed.

(6) ~~Vulnerability.~~ The victim was particularly vulnerable.

(7) ~~Other.~~ The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

~~(b) Circumstances in Mitigation. Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2427, or which may justify no adjustment, include:~~
~~(1) Successful Completion of Probation or Parole. The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.~~
~~(2) Probation. The prisoner was granted probation after conviction of the other crime.~~
~~(3) Other. The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1170, 3040 and 3041, Penal Code; and Sentencing Rules for the Superior Courts.~~

Section 2429. Postconviction Credit is *deleted*:

~~§ 2429. Postconviction Credit.~~

~~The application of postconviction credit shall be considered as provided in Section 2410.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code; In re Stanley, 54 Cal.App.3d 1030 (1976).~~

Section 2429.1. Fixing a Parole Date is *deleted*:

~~§ 2429.1. Fixing a Parole Date.~~

~~The parole date shall be determined as provided in Section 2411.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1203.2a and 2900, Penal Code.~~

ARTICLE 13. PAROLE CONSIDERATION CRITERIA AND GUIDELINES FOR SEX OFFENDERS SENTENCED TO LIFE TERMS UNDER PENAL CODE SECTION 667.51 is amended as follows:

Section 2430. Scope of Article is *amended*:

§2430. Scope of Article.

The criteria and guidelines in this article shall apply to prisoners sentenced to a term of 15 years to life under Penal Code Section 667.51. The guidelines in this article shall be construed as based on the public's expressed intent in adding Section 667.51 to the Penal Code that a person convicted of lewd or lascivious acts committed against a child under the age of 14, and who has served two or more prior prison terms for specified sex crimes should be incarcerated for an extended period of time.

The general statement in Section 2400 regarding the differences between the minimum eligible parole date and the parole release date shall be construed as if incorporated herein.

A person committed under Penal Code Section 667.51 shall have his initial parole consideration hearing in the thirteenth month prior to the minimum eligible parole date. The prisoner shall have documentation hearings as provided in Section 2269.1, ~~but no specific amount of postconviction credit shall be granted until the board has established a period of confinement.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 667.7, 2930-2933, 3040 and 3041, Penal Code.

Section 2431. General is amended:

§ 2431. General.

A sex offender shall be considered for parole for the first time at the initial parole consideration hearing. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2432(c). ~~A parole date shall be set if the prisoner is found suitable for parole under Section 2432(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.~~

~~In setting a parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining suitability for parole and the setting of parole dates, the circumstances of the crimes for which the prisoner was sentenced and any circumstances in aggravation or mitigation.~~

~~In setting a base period of confinement, the panel shall consider the circumstances of the current and prior offenses resulting in conviction under Penal Code Section 667.51.~~

The circumstances tending to show suitability and unsuitability, ~~and the circumstances in aggravation and mitigation~~ contained in this article shall be construed as guidelines only. The panel may make findings outside the guidelines when warranted in the individual case and reasons are stated on the record.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code.

Section 2433. Base Term is deleted:

§ 2433. Base Term

~~(a) General. The panel shall set a base term for each sex offender who is found suitable for parole. The base term shall be established based on the circumstances of the series of prior and current offenses which resulted in conviction as a sex offender, considered as a whole. The panel shall set a base term which it finds to be appropriate in an individual case after consideration of the Circumstances in Aggravation listed in Section 2434 and the Circumstances in Mitigation listed in Section 2435, and any other circumstances which appear to be important in the judgment of the panel.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51 and 3041, Penal Code.~~

Section 2434. Circumstances in Aggravation of the Base Term is deleted:

§ 2434. Circumstances in Aggravation of the Base Term.

Circumstances in aggravation of the base term include:

(a) Criminal History.

~~(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(c).~~

- ~~(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time of each other.~~
- ~~(3) The prisoner has been convicted of offenses, misdemeanors or felonies, involving sexually aberrant behavior other than those resulting in the life sentence under Penal Code Section 667.51.~~
- ~~(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.51.~~
- ~~(5) The current or prior commitments to state prison resulted from multiple convictions for sex and sex-related offenses.~~

~~(b) Circumstances of Offenses.~~

- ~~(1) The current offense or offenses or the offenses underlying the prior prison terms resulted in physical or psychological injury to the victim beyond that occasioned by the sex act.~~
- ~~(2) The current offense or offenses or the offenses underlying the prior prison terms involved arming or use of a firearm or deadly or dangerous weapon.~~
- ~~(3) The current offense or offenses and the offenses underlying the prior prison terms establish a pattern of sexual crimes against children.~~
- ~~(4) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable resulting from factors other than the age or sex of the victim, and/or who occupy a position of trust in relation to the prisoner.~~

~~(c) The Circumstances in Aggravation listed in Sections 2283, except subdivision (a)(1), and 2404, as appropriate to the case of a habitual sex offender.~~

~~(d) Any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code.~~

Section 2435. Circumstances in Mitigation of the Base Term is *deleted*:

~~§ 2435. Circumstances in Mitigation of the Base Term.~~

~~Circumstances in mitigation of the base term include:~~

~~(a) Criminal History.~~

- ~~(1) The offenses underlying the prior prison terms were for non-violent offenses not listed in Penal Code Section 667.5(c).~~
- ~~(2) The prisoner has no other convictions for sex or sex-related offenses other than those resulting in commitment under Penal Code Section 667.51.~~
- ~~(3) The current and previous commitments resulted from a single sex offense committed against a single victim.~~

~~(b) Circumstances of Offense.~~

- ~~(1) The current offense or offenses and the offenses underlying the prior prison terms resulted in no physical or psychological injury to any victim beyond that directly resulting from the sex act.~~
- ~~(2) The current offense or offenses and the offenses underlying the prior prison terms did not involve arming or use of a firearm or deadly or dangerous weapon.~~

~~(3) The commission of the offenses resulting in commitment under Penal Code Section 667.51 appear to have resulted from a psychological condition for which the prisoner has voluntarily and continuously sought treatment.~~

~~(e) The Circumstances in Mitigation listed in Sections 2284, except (a)(1), and 2405, as appropriate to the case of a habitual sex offender.~~

~~(d) Any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code.~~

Section 2436. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms is *deleted*:

~~§ 2436. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms.~~

~~(a) The panel shall consider the addition of adjustments for weapons, great loss, and prior prison terms as provided in Section 2406.~~

~~(b) The panel shall consider the addition of an adjustment for great bodily injury using the guidelines as provided in Section 2406 for the addition of adjustments for weapons, great loss and prior prison terms.~~

~~(c) The panel shall not consider adjustments for prior prison terms which resulted in the commitment as a sex offender.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.5, 667.51, 3040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.~~

Section 2437. Adjustment for Other Offenses is *deleted*:

~~§ 2437. Adjustments for Other Offenses.~~

~~(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.~~

~~(b) Multiple Convictions.~~

~~(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.~~

~~(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term. The board shall add adjustments for the remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the~~

crime. In no case will the parole date for consecutive sentences be earlier than the parole date for concurrent sentences.

(3) ~~Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:~~

~~(A) Time served on the nonbase life crime prior to reception on the base offense; or~~

~~(B) The following adjustment:~~

~~1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.~~

~~2. Second degree murder: 8 years for a second degree murder committed on or after November 8, 1978.~~

~~3. One half the period of parole ineligibility for other life crimes.~~

~~(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the board shall not add additional adjustments for the nonlife crimes.~~

~~(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:~~

~~(A) Time served for the nonlife crime prior to reception on the life offense; or~~

~~(B) One half the determinate term imposed by the court; or~~

~~(C) One half the term that would be established under Section 2271 for crimes which carry a sentence of a year and a day.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 669, 1170, 3040 and 3041, Penal Code.

Section 2438. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes is deleted:

~~§ 2438. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes.~~

~~(a) Circumstances in Aggravation. Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2437 include:~~

~~(1) Pattern of Violence. A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.~~

~~(2) Numerous Crimes. The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions but not resulting in adjustments under Section 2437.~~

~~(3) The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.~~

~~(4) Independent Criminal Activity. The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place.~~

~~(5) Status. The prisoner was on probation or parole or had escaped from custody when the other crime was committed.~~

~~(6) Other. The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.~~

~~(b) Circumstances in Mitigation. Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2437, or which may justify no adjustment, include:~~

(1) ~~Successful Completion of Probation or Parole.~~ The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.

(2) ~~Probation.~~ The prisoner was granted probation after conviction of the other crime.

(3) ~~Other.~~ The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 669, 1170, 3040 and 3041, Penal Code; and Sentencing Rules for the Superior Courts.

Section 2439. Postconviction Credit is *deleted*:

~~§ 2439. Postconviction Credit.~~

~~The application of postconviction credit shall be considered as provided in Section 2410.~~

~~The parole date shall be determined as provided in Section 2411.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code; In re Stanley, 54 Cal.App.3d (1976).

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 669, 1203.2a and 2900, Penal Code.

Section 2439.1 Fixing a Parole Date is *deleted*:

~~§ 2439.1. Fixing a Parole Date.~~

~~The parole date shall be determined as provided in Section 2411.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 669, 1203.2a and 2900, Penal Code.